

# **SESSION LAWS OF MISSOURI**

**Passed at**

**2010 ELECTIONS**

**and**

**Passed during the**

**NINETY-SIXTH GENERAL ASSEMBLY**

First Regular Session, which convened at the City of Jefferson,  
Wednesday, January 5, 2011, and adjourned Monday, May 30, 2011.

First Extraordinary Session, which convened at the City of Jefferson,  
Tuesday, September 6, 2011. The Senate adjourned sine die Tuesday,  
October 25, 2011, and the House adjourned Thursday, October 27, 2011, resulting in  
an automatic sine die adjournment of the General Assembly under the Missouri  
Constitution on Saturday, November 5, 2011.

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**Published by the**

**MISSOURI JOINT  
COMMITTEE ON  
LEGISLATIVE RESEARCH**

In compliance with Sections 2.030 and 2.040,  
Revised Statutes of Missouri, 2010

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2010 - 2011**

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## **HOW TO USE THE SESSION LAWS**

The first pages contain the *Popular Name Table*, the *Table of Sections Affected by the August and November 2010 Elections*, and the *Table of Sections Affected by 2011 Legislation* from the First Regular Session and the First Extraordinary Session of the First Regular Session of the 96th General Assembly.

The adopted statutory initiative petitions and the constitutional amendments from the August 3, 2010, and November 2, 2010, elections appear first.

The text of all 2011 House and Senate Bills and the Concurrent Resolutions from the First Regular Session and the First Extraordinary Session appears next. The appropriation bills are presented first, with all others following in numerical order.

A subject index is included at the end of this volume.

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## Authority for Publishing Session Laws and Resolutions

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**Section 2.030, Revised Statutes of Missouri, 2010. — Legislative research, printing and binding of laws.** — The joint committee on legislative research shall annually collate and index, and may print and bind and/or produce in a web-based electronic format all laws and resolutions passed or adopted by the general assembly and all measures approved by the people since the last publication of the session laws. Any edition of the session laws published pursuant to this section is a part of the official laws and resolutions of the general assembly at which the laws and resolutions were passed..

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**Section 2.040, Revised Statutes of Missouri, 2010. — Duties of Legislative Research in printing and binding.** — The joint committee on legislative research shall provide copies of all laws, measures and resolutions duly enacted by the general assembly and all amendments to the constitution and all measures approved by the people since the last publication of the session laws pursuant to section 2.030, giving the date of the approval or adoption thereof. The joint committee on legislative research shall headnote, collate, index the laws, resolutions and constitutional amendments, and compare the proof sheets of the printed copies with the original rolls. The revisor of statutes shall insert therein an attestation under the revisor's hand that the revisor has compared the laws, resolutions, constitutional amendments and measures therein contained with the original rolls and copies in the office of the secretary of state and that the same are true copies of such laws, measures, resolutions and constitutional amendments as the same appear in the original rolls in the office of the secretary of state. The joint committee on legislative research shall cause the completed laws, resolutions and constitutional amendments to be printed and bound.

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## ATTESTATION

STATE OF MISSOURI )

) ss.

City of Jefferson )

I, Russ Hembree, Revisor of Statutes, hereby certify that I have collated carefully the laws and resolutions passed by the Ninety-sixth General Assembly of the State of Missouri, convened in first regular session, as they are contained in the following pages, and have compared them with the original rolls and have corrected them thereby. Headnotes are used for the convenience of the reader and are not part of the laws they precede.

IN TESTIMONY WHEREOF, I have hereunto set my hand at my office in the City of Jefferson this twenty-eighth day of July A.D. two thousand eleven.

RUSS HEMBREE  
REVISOR OF STATUTES

## EFFECTIVE DATE OF LAWS

### Section 29, Article III of the Constitution provides:

“No law passed by the general assembly, except an appropriation act, shall take effect until ninety days after the adjournment of the session in either odd-numbered or even-numbered years at which it was enacted. However, in case of an emergency which must be expressed in the preamble or in the body of the act, the general assembly by a two-thirds vote of the members elected to each house, taken by yeas and nays may otherwise direct; and further except that, if the general assembly recesses for thirty days or more it may prescribe by joint resolution that laws previously passed and not effective shall take effect ninety days from the beginning of the recess.”

The Ninety-sixth General Assembly, First Regular Session, convened January 5, 2011, and adjourned Monday, May 30, 2011. All laws passed by it (other than appropriation acts, those having emergency clauses or different effective dates) became effective ninety days thereafter on August 28, 2011.

The Ninety-sixth General Assembly, First Extraordinary Session, convened September 6, 2011. The Senate adjourned sine die Tuesday, October 25, 2011, and the House adjourned Thursday, October 27, 2011, resulting in an automatic sine die adjournment of the General Assembly under the Missouri Constitution on Saturday, November 5, 2011. All laws passed by it (other than appropriation acts, those having emergency clauses or different effective dates) became effective ninety days thereafter on February 3, 2012.

## JOINT RESOLUTIONS AND INITIATIVE PETITIONS

### Section 2(b), Article XII of the Constitution provides:

“All amendments proposed by the general assembly or by the initiative shall be submitted to the electors for their approval or rejection by official ballot title as may be provided by law, on a separate ballot without party designation, at the next general election, or at a special election called by the governor prior thereto, at which he may submit any of the amendments..... If a majority of the votes cast thereon is in favor of any amendment, the same shall take effect at the end of thirty days after the election. More than one amendment at the same election shall be so submitted as to enable the electors to vote on each amendment separately.”

The Ninety-sixth General Assembly, First Regular Session, passed two Joint Resolutions. Resolutions are to be published as provided in Section 116.340, RSMo 2000, which reads:

**“116.340. Publication of approved measures.** — When a statewide ballot measure is approved by the voters, the secretary of state\* shall publish it with the laws enacted by the following session of the general assembly, and the revisor of statutes shall include it in the next edition or supplement of the revised statutes of Missouri. Each of the measures printed above shall include the date of the proclamation or statement of approval under section 116.330.”

\*The publication of session laws was delegated to the Joint Committee on Legislative Research in 1997 by Senate Bill 459, section 2.040.

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The headnotes used to describe sections printed in this volume may not be identical with the headnotes which appear in the 2011 Supplement to the Revised Statutes of Missouri. Every attempt has been made to develop headnotes which adequately describe the textual material contained in the section.

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# POPULAR NAME TABLE

## 2011 LEGISLATION

Amy Hestir Student Protection Act, SB 54

Canine Cruelty Prevention Act, SB 113, SB 161

Facebook Communications, SB 1, First Extraordinary Session

Erin's Law, Task Force on Prevention of Sexual Abuse of Children, SB 54

Named Bridges and Highways

Ferlin Husky Highway, HB 798, et al.

Glennon T. Moran Memorial Bridge, HB 798, et al.

Heroes Way Interchange Designation Program, HB 798, et al.

Missouri State Highway Patrol Sergeant David May Memorial Highway,  
HB 798, et al.

Missouri State Highway Patrol Sergeant Joseph G. Schuengel Memorial  
Highway, HB 798, et al. merged with SB 77 merged with SB 173

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Pvt Ova A. Kelley Medal of Honor Memorial Bridge, HB 798, et al.

Rabbi Ernest I. Jacob Memorial Highway, SB 77 merged with SB 173

Representative Otto Bean Memorial Highway, HB 798, et al. merged with  
SB 77

SFC Wm. Brian Woods, Jr. Memorial Highway, SB 77 merged with SB 173

Truman/Eisenhower Presidential Highway, SB 77

OA Revision Bill, HB 315

Public Holidays

Child Abuse Prevention Month, HB 749

Dress in Blue for Colon Cancer Awareness Day, HB 182

Missouri Bicycle Month and Day, SB 180

Missouri School Read-In Day, HB 795

Walk & Bike to School Month and Day, SB 180

Puppy Mill Cruelty Act, Proposition B, November 2, 2010

Special License Plates

Cass County--The Burnt District, HB 307 and HB 812

Combat Action Badge, HB 307 and HB 812

Don't Tread on Me, HB 307 and HB 812

Nixa Education Foundation, HB 307 and HB 812

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Combat Action Badge, HB 307 and HB 812

Don't Tread on Me, HB 307 and HB 812

Nixa Education Foundation, HB 307 and HB 812



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TABLE OF SECTIONS AFFECTED  
BY  
AUGUST 3, 2010, ELECTION

SECTION	ACTION	BILL		SECTION	ACTION	BILL
1.330	New	Prop C		375.1175	Amended	Prop C

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BY  
NOVEMBER 2, 2010, ELECTION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
92.105	New	Prop A	92.230	Repealed	Prop A
92.110	Repealed	Prop A	92.240	Repealed	Prop A
92.110	New	Prop A	92.250	Repealed	Prop A
92.112	Repealed	Prop A	92.260	Repealed	Prop A
92.112	New	Prop A	92.270	Repealed	Prop A
92.115	New	Prop A	92.280	Repealed	Prop A
92.125	New	Prop A	92.290	Repealed	Prop A
92.210	Repealed	Prop A	92.300	Repealed	Prop A
92.220	Repealed	Prop A	273.345	New	Prop B

**TABLE OF SECTIONS AFFECTED  
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<b>SECTION</b>	<b>ACTION</b>	<b>BILL</b>	<b>SECTION</b>	<b>ACTION</b>	<b>BILL</b>
1.310	Amended	HB 45	26.609	Repealed	HB 464
8.241	Amended	HB 555	26.611	Repealed	HB 464
8.241	Amended	HB 648	26.614	Repealed	HB 464
8.650	Amended	HB 464	27.015	Vetoed	SB 282
8.900	Amended	HB 464	28.190	Vetoed	SB 282
9.137	New	HB 795	29.280	Vetoed	SB 282
9.156	New	HB 182	30.060	Vetoed	SB 282
9.164	New	SB 180	30.070	Vetoed	SB 282
9.165	New	SB 180	30.080	Vetoed	SB 282
9.173	New	HB 749	30.260	Amended	HB 109
10.185	New	HB 749	30.750	Amended	HB 109
21.400	Amended	SB 68	30.758	Amended	HB 109
21.475	Repealed	HB 464	30.767	Repealed	HB 109
21.780	Repealed	HB 464	30.810	Amended	HB 109
21.795	Vetoed	HB 430	30.860	Amended	HB 109
21.801	Amended	SB 356	32.125	Repealed	HB 315
21.920	Amended	SB 173	32.250	Repealed	HB 464
26.016	Vetoed	SB 282	32.260	Repealed	HB 464
26.600	Repealed	HB 464	34.376	New	HB 111
26.603	Repealed	HB 464	34.376	New	SB 59
26.605	Repealed	HB 464	34.378	New	HB 111
26.607	Repealed	HB 464	34.378	New	SB 59

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34.380	New	HB 111	59.022	New	HB 186
34.380	New	SB 59	67.281	Repealed	HB 315
37.005	Amended	HB 137	67.281	Amended	SB 108
37.710	Amended	SB 54	67.319	New	HB 142
37.735	New	HB 464	67.402	Vetoed	HB 209
37.740	New	HB 464	67.402	Amended	SB 187
37.745	New	HB 464	67.451	New	HB 142
37.970	New	HB 89	67.1000	Amended	HB 161
41.950	Amended	HB 204	67.1002	Amended	HB 161
41.1000	Amended	SB 36	67.1003	Amended	HB 161
43.545	Amended	SB 320	67.1005	Repealed	HB 161
44.114	New	SB 132	67.1006	Amended	HB 161
49.310	Amended	HB 340	67.1303	Amended	HB 161
50.535	Amended	HB 294	67.1303	Amended	SB 117
51.050	Amended	HB 186	67.1305	Repealed	HB 315
52.010	Vetoed	SB 282	67.1521	Amended	HB 142
52.315	Repealed	HB 315	67.1521	Amended	SB 117
54.033	Vetoed	SB 282	67.1956	Amended	HB 161
54.330	Vetoed	SB 282	67.4500	New	HB 89
55.030	Amended	HB 142	67.4505	New	HB 89
58.095	Amended	HB 675	67.4510	New	HB 89
59.021	New	HB 186	67.4515	New	HB 89

**TABLE OF SECTIONS AFFECTED  
BY  
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<b>SECTION</b>	<b>ACTION</b>	<b>BILL</b>		<b>SECTION</b>	<b>ACTION</b>	<b>BILL</b>
67.4520	New	HB 89		86.1120	Amended	HB 282
70.441	Vetoed	HB 430		86.1140	Amended	HB 183
70.710	Amended	HB 282		86.1140	Amended	HB 282
70.720	Amended	HB 282		86.1150	Amended	HB 183
70.730	Amended	HB 282		86.1150	Amended	HB 282
71.220	Amended	HB 38		86.1230	Amended	HB 183
78.090	Vetoed	SB 282		86.1230	Amended	HB 282
86.252	Amended	HB 358		86.1240	Amended	HB 183
86.255	Amended	HB 358		86.1240	Amended	HB 282
86.256	Amended	HB 358		86.1250	Amended	HB 183
86.294	Amended	HB 358		86.1250	Amended	HB 282
86.295	New	HB 358		86.1310	Amended	HB 183
86.354	Amended	HB 358		86.1310	Amended	HB 282
86.900	Amended	HB 183		86.1420	Amended	HB 183
86.900	Amended	HB 282		86.1420	Amended	HB 282
86.1030	Amended	HB 183		86.1480	Amended	HB 183
86.1030	Amended	HB 282		86.1480	Amended	HB 282
86.1100	Amended	HB 183		86.1490	Amended	HB 183
86.1100	Amended	HB 282		86.1490	Amended	HB 282
86.1110	Amended	HB 183		86.1500	Amended	HB 183
86.1110	Amended	HB 282		86.1500	Amended	HB 282
86.1120	Amended	HB 183		86.1510	Amended	HB 183

**TABLE OF SECTIONS AFFECTED  
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<b>SECTION</b>	<b>ACTION</b>	<b>BILL</b>	<b>SECTION</b>	<b>ACTION</b>	<b>BILL</b>
86.1510	Amended	HB 282	90.101	Amended	HB 464
86.1540	Amended	HB 183	91.055	Repealed	HB 315
86.1540	Amended	HB 282	94.585	New	SB 117
86.1560	Amended	HB 183	94.900	Amended	HB 161
86.1560	Amended	HB 282	94.900	Amended	SB 117
86.1600	Amended	HB 183	100.273	New	HB 282
86.1600	Amended	HB 282	103.080	Amended	HB 270
86.1610	Amended	HB 183	103.089	Amended	HB 270
86.1610	Amended	HB 282	104.603	New	HB 282
86.1620	Amended	HB 183	105.030	Vetoed	SB 282
86.1620	Amended	HB 282	105.040	Vetoed	SB 282
87.005	Amended	HB 664	105.050	Vetoed	SB 282
87.005	Amended	SB 238	105.661	Amended	HB 282
87.006	Amended	HB 664	105.915	Amended	HB 282
87.006	Amended	SB 238	105.927	Amended	HB 282
87.127	New	HB 282	105.1006	Amended	HB 464
87.127	New	HB 664	105.1010	Repealed	HB 464
87.205	Amended	HB 282	105.1012	Amended	HB 464
87.205	Amended	HB 664	115.015	Vetoed	SB 282
87.207	Amended	HB 282	115.123	Vetoed	SB 282
87.207	Amended	HB 664	115.124	Vetoed	SB 282
90.101	Amended	HB 142	115.127	Vetoed	SB 282

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115.230	New	HB 217	135.100	Amended	HB 315
115.241	Vetoed	SB 282	135.200	Amended	HB 315
115.276	Vetoed	SB 3	135.950	Amended	HB 737
115.293	Vetoed	SB 282	135.953	Amended	HB 737
115.342	Vetoed	SB 282	135.963	Amended	HB 737
115.348	Repealed	HB 315	137.010	Amended	HB 737
115.427	Vetoed	SB 3	137.016	Amended	SB 55
115.601	Vetoed	SB 282	137.073	Amended	HB 506
115.637	Vetoed	SB 282	137.082	Amended	HB 506
115.755	Vetoed	SB 282	140.410	Amended	SB 117
115.761	Vetoed	SB 282	140.660	Repealed	SB 117
128.345	Amended	HB 193	141.550	Repealed	HB 315
128.346	Amended	HB 193	143.173	New	HB 45
128.348	Amended	HB 193	143.183	Amended	HB 470
128.451	New	HB 193	143.183	Amended	SB 81
128.452	New	HB 193	143.1004	Amended	HB 149
128.453	New	HB 193	143.1013	New	HB 631
128.454	New	HB 193	143.1014	New	SB 356
128.455	New	HB 193	143.1015	New	HB 431
128.456	New	HB 193	143.1015	New	HB 604
128.457	New	HB 193	143.1016	New	HB 151
128.458	New	HB 193	143.1016	New	SB 226



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143.1017	New	HB 631	162.1000	Amended	HB 464
144.010	Amended	SB 356	162.1060	Amended	HB 464
144.018	Amended	HB 315	162.1195	New	SB 81
144.019	Repealed	HB 315	163.037	Repealed	SB 81
144.020	Amended	SB 356	165.011	Amended	SB 81
144.030	Amended	HB 458	166.200	Repealed	HB 464
144.030	Amended	SB 284	166.201	Repealed	HB 464
144.030	Amended	SB 356	166.203	Repealed	HB 464
144.032	Amended	HB 111	166.205	Repealed	HB 464
144.032	Amended	SB 117	166.207	Repealed	HB 464
144.064	New	HB 294	166.209	Repealed	HB 464
144.070	Amended	SB 356	166.212	Repealed	HB 464
147.010	Amended	SB 19	166.215	Repealed	HB 464
160.085	New	SB 54	166.218	Repealed	HB 464
160.261	Amended	SB 54	166.220	Repealed	HB 464
160.262	New	SB 54	166.222	Repealed	HB 464
160.2100	New	SB 54	166.225	Repealed	HB 464
160.2110	New	SB 54	166.228	Repealed	HB 464
162.014	New	SB 54	166.231	Repealed	HB 464
162.068	New	SB 54	166.233	Repealed	HB 464
162.069	New	SB 54	166.235	Repealed	HB 464
162.946	New	HB 555	166.237	Repealed	HB 464

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166.240	Repealed	HB 464	181.060	Amended	HB 161
166.242	Repealed	HB 464	182.802	New	HB 161
167.765	New	HB 300	188.015	Amended	HB 213
167.775	New	HB 300	188.015	Amended	SB 65
168.021	Amended	SB 54	188.029	Repealed	HB 213
168.071	Amended	SB 54	188.029	Repealed	SB 65
168.133	Amended	SB 54	188.030	Amended	HB 213
169.270	Amended	HB 229	188.030	Amended	SB 65
169.280	Amended	HB 229	189.010	Amended	HB 555
169.301	Amended	HB 229	189.010	Amended	HB 648
169.324	Amended	HB 229	189.065	Amended	HB 555
169.328	Amended	HB 229	189.065	Amended	HB 648
171.035	Repealed	HB 315	190.015	Amended	SB 226
172.030	Amended	HB 174	190.035	Amended	SB 226
172.030	Vetoed	SB 163	190.040	Amended	SB 226
173.005	Amended	HB 174	190.056	New	SB 226
173.005	Vetoed	SB 163	190.056	Vetoed	SB 282
173.1350	New	HB 223	190.176	Amended	HB 464
174.450	Amended	HB 174	190.308	Amended	HB 68
174.450	Vetoed	SB 163	190.839	Amended	SB 62
178.900	Amended	HB 555	191.025	New	HB 423
178.900	Amended	HB 648	191.227	Amended	SB 62

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191.755	New	HB 197	198.012	Amended	HB 555
191.758	New	HB 197	198.012	Amended	HB 648
191.950	New	HB 667	198.074	Vetoed	SB 118
191.950	New	SB 38	198.439	Amended	SB 62
192.005	Amended	HB 555	199.001	Amended	HB 464
192.005	Amended	HB 648	199.003	Amended	HB 464
192.350	Repealed	HB 464	199.007	Amended	HB 464
192.352	Repealed	HB 464	199.009	Amended	HB 464
192.355	Repealed	HB 464	199.010	Amended	HB 464
192.735	Amended	HB 464	199.029	Amended	HB 464
192.737	Amended	HB 464	199.031	Amended	HB 464
192.739	Amended	HB 464	199.037	Amended	HB 464
192.742	Amended	HB 464	199.039	Amended	HB 464
192.745	Amended	HB 464	199.041	Amended	HB 464
192.1250	New	HB 89	199.043	Amended	HB 464
194.115	Amended	SB 213	199.051	Amended	HB 464
195.010	Amended	HB 641	205.205	New	HB 111
195.017	Amended	HB 641	205.205	New	SB 117
195.022	Amended	HB 641	205.968	Amended	HB 555
195.202	Amended	HB 641	205.968	Amended	HB 648
195.217	Amended	HB 641	208.027	New	HB 73
198.006	Vetoed	SB 118	208.151	Amended	HB 555

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208.151	Amended	HB 648		210.152	Amended	SB 54
208.152	Amended	HB 552		210.496	Amended	HB 555
208.175	Amended	HB 464		210.496	Amended	HB 604
208.195	Repealed	HB 464		210.496	Amended	HB 648
208.275	Amended	HB 464		210.498	Amended	HB 431
208.275	Amended	HB 555		210.498	Amended	HB 604
208.275	Amended	HB 648		210.565	Amended	HB 431
208.437	Amended	SB 62		210.565	Amended	HB 604
208.480	Amended	SB 62		210.617	New	HB 431
208.792	Repealed	HB 464		210.617	New	HB 604
208.798	Amended	HB 412		210.844	Amended	HB 260
208.955	Amended	HB 464		210.900	Amended	HB 555
208.955	Amended	HB 555		210.900	Amended	HB 648
208.955	Amended	HB 648		210.915	Amended	SB 54
210.101	Amended	HB 464		210.922	Amended	SB 54
210.101	Amended	HB 555		211.031	Amended	HB 555
210.105	New	HB 464		211.031	Amended	HB 604
210.105	New	HB 555		211.031	Amended	HB 648
210.112	Amended	HB 431		211.031	Amended	SB 320
210.112	Amended	HB 604		211.202	Amended	HB 555
210.135	Amended	SB 54		211.202	Amended	HB 648
210.145	Amended	SB 54		211.203	Amended	HB 555

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211.203	Amended	HB 648	226.720	Amended	SB 187
211.206	Amended	HB 555	227.107	Vetoed	HB 430
211.206	Amended	HB 648	227.107	Amended	SB 173
211.207	Amended	HB 555	227.297	Amended	HB 798
211.207	Amended	HB 648	227.381	Repealed	HB 315
211.447	Amended	HB 555	227.410	Amended	SB 77
211.447	Amended	HB 604	227.410	Amended	SB 173
211.447	Amended	HB 648	227.418	New	HB 798
213.010	Vetoed	SB 188	227.420	New	HB 798
213.070	Vetoed	SB 188	227.422	New	HB 798
213.101	Vetoed	SB 188	227.424	New	HB 798
213.111	Vetoed	SB 188	227.424	New	SB 77
217.777	Repealed	HB 315	227.424	New	SB 173
221.025	New	HB 111	227.425	New	SB 77
221.503	New	HB 38	227.426	New	HB 798
226.195	Vetoed	HB 484	227.427	New	HB 798
226.195	New	SB 173	227.429	New	HB 798
226.224	Vetoed	HB 1008	227.429	New	SB 77
226.520	Amended	SB 77	227.430	New	SB 77
226.540	Vetoed	HB 430	227.430	New	SB 173
226.541	Vetoed	HB 430	228.362	Repealed	HB 315
226.720	Vetoed	HB 209	230.220	Amended	HB 70

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233.280	Vetoed	HB 184	260.965	Amended	SB 135
238.202	Amended	HB 506	262.815	New	HB 458
238.202	Amended	SB 173	262.815	New	SB 356
238.225	Amended	SB 173	262.950	New	HB 344
238.235	Amended	SB 173	263.190	Amended	HB 458
247.060	Amended	HB 89	263.190	Amended	SB 356
249.425	New	SB 173	263.200	Amended	HB 458
250.236	Amended	SB 48	263.200	Amended	SB 356
253.082	Amended	HB 190	263.205	Repealed	HB 458
253.090	Amended	HB 89	263.205	Repealed	SB 356
253.090	Amended	SB 135	263.220	Amended	HB 458
256.055	New	HB 190	263.220	Amended	SB 356
260.262	Amended	SB 135	263.230	Repealed	HB 458
260.269	New	HB 578	263.230	Repealed	SB 356
260.269	New	SB 135	263.232	Repealed	HB 458
260.372	Amended	HB 464	263.232	Repealed	SB 356
260.380	Amended	SB 135	263.240	Amended	HB 458
260.475	Amended	SB 135	263.240	Amended	SB 356
260.705	Amended	HB 464	263.241	Repealed	HB 458
260.720	Amended	HB 464	263.241	Repealed	SB 356
260.725	Repealed	HB 464	263.450	Repealed	HB 458
260.735	Amended	HB 464	263.450	Repealed	SB 356

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268.121	Amended	HB 458	286.001	Amended	HB 464
268.121	Amended	SB 356	286.005	Amended	HB 464
273.327	Amended	SB 113	286.060	Repealed	HB 315
273.327	Amended	SB 161	286.200	Repealed	HB 464
273.345	Amended	SB 113	286.205	Repealed	HB 464
273.345	Amended	SB 161	286.210	Repealed	HB 464
273.347	New	SB 113	288.040	Amended	HB 163
273.347	New	SB 161	288.050	Amended	HB 136
275.360	Amended	HB 344	288.060	Amended	HB 163
275.360	Amended	SB 356	288.062	Amended	HB 163
276.401	Amended	HB 458	288.090	Amended	HB 136
276.401	Amended	SB 356	288.100	Amended	HB 136
276.416	Repealed	HB 458	301.010	Vetoed	HB 430
276.416	Repealed	SB 356	301.064	Amended	HB 315
276.421	Amended	HB 458	301.143	Amended	HB 555
276.421	Amended	SB 356	301.147	Vetoed	HB 430
276.436	Amended	HB 458	301.225	Vetoed	HB 430
276.436	Amended	SB 356	301.425	Vetoed	HB 430
276.441	Amended	HB 458	301.477	New	HB 307
276.441	Amended	SB 356	301.559	Vetoed	HB 430
276.446	Repealed	HB 458	301.560	Vetoed	HB 430
276.446	Repealed	SB 356	301.562	Vetoed	HB 430

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301.600	Amended	HB 550		304.180	Vetoed	HB 430
301.630	Repealed	HB 315		304.200	Vetoed	HB 430
301.3084	Vetoed	HB 430		304.678	Repealed	HB 315
301.3161	New	HB 307		304.890	Vetoed	HB 430
301.4006	New	HB 307		304.892	Vetoed	HB 430
301.4035	New	HB 307		304.894	Vetoed	HB 430
301.4036	Vetoed	HB 430		306.109	Amended	SB 135
302.020	Amended	HB 111		306.400	Amended	HB 550
302.136	Repealed	HB 464		311.087	New	HB 101
302.181	Amended	HB 294		311.088	New	HB 101
302.186	New	HB 204		311.297	Amended	HB 101
302.291	Amended	HB 499		311.325	Amended	HB 111
302.302	Vetoed	HB 430		311.482	Amended	HB 101
302.309	Vetoed	HB 430		311.485	Amended	HB 101
302.321	Amended	HB 111		311.486	Amended	HB 101
302.341	Vetoed	HB 430		319.016	Amended	SB 173
302.700	Vetoed	HB 430		319.025	Amended	SB 173
302.768	Vetoed	HB 430		319.130	New	SB 135
303.025	Amended	HB 111		319.132	Amended	SB 135
304.028	Amended	HB 464		320.094	Amended	HB 464
304.120	Vetoed	HB 430		320.205	Amended	HB 464
304.156	Repealed	HB 315		321.120	Amended	SB 226



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321.701	Repealed	HB 315	324.1103	Amended	HB 464
321.714	Repealed	HB 315	324.1104	Amended	HB 464
324.008	New	HB 136	324.1106	Amended	HB 464
324.014	New	HB 265	324.1107	New	HB 464
324.014	New	SB 325	324.1108	Amended	HB 464
324.043	Amended	HB 265	324.1109	New	HB 464
324.045	New	HB 265	324.1110	Amended	HB 464
324.600	Repealed	HB 464	324.1112	Amended	HB 464
324.603	Repealed	HB 464	324.1114	Amended	HB 464
324.606	Repealed	HB 464	324.1116	Amended	HB 464
324.609	Repealed	HB 464	324.1118	Amended	HB 464
324.612	Repealed	HB 464	324.1120	Amended	HB 464
324.615	Repealed	HB 464	324.1122	Amended	HB 464
324.618	Repealed	HB 464	324.1124	Amended	HB 464
324.621	Repealed	HB 464	324.1128	Amended	HB 464
324.624	Repealed	HB 464	324.1130	Amended	HB 464
324.627	Repealed	HB 464	324.1132	Amended	HB 464
324.630	Repealed	HB 464	324.1134	Amended	HB 464
324.635	Repealed	HB 464	324.1136	Amended	HB 464
324.712	Repealed	HB 315	324.1138	Amended	HB 464
324.1100	Amended	HB 464	324.1140	Repealed	HB 464
324.1102	Amended	HB 464	324.1144	Amended	HB 464

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332.021	Amended	HB 464	334.099	New	HB 265
332.021	Amended	HB 555	334.100	Amended	HB 265
332.425	New	HB 591	334.102	Amended	HB 265
332.425	New	SB 325	334.103	Amended	HB 265
333.041	Amended	HB 265	334.108	New	HB 265
333.041	Amended	SB 325	334.120	Amended	HB 464
333.042	Amended	HB 265	334.120	Amended	HB 555
333.042	Amended	SB 325	334.715	Amended	HB 265
333.051	Amended	HB 265	335.036	Amended	HB 223
333.051	Amended	SB 325	335.036	Amended	SB 325
333.061	Amended	HB 265	335.067	Repealed	HB 315
333.061	Amended	SB 325	335.099	New	SB 325
333.091	Amended	HB 265	335.200	Amended	HB 223
333.091	Amended	SB 325	335.200	Amended	SB 325
333.151	Amended	HB 265	335.203	Amended	HB 223
333.151	Amended	SB 325	335.203	Amended	SB 325
333.171	Amended	HB 265	335.206	Repealed	HB 223
333.171	Amended	SB 325	335.206	Repealed	SB 325
334.001	New	HB 265	335.209	Repealed	HB 223
334.040	Amended	HB 265	335.209	Repealed	SB 325
334.070	Amended	HB 265	338.010	Amended	HB 412
334.090	Amended	HB 265	338.010	Amended	SB 325

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338.055	Amended	HB 412	344.105	Amended	HB 464
338.055	Amended	SB 284	344.108	Amended	HB 464
338.140	Amended	HB 412	348.400	Amended	SB 161
338.140	Amended	SB 325	348.407	Amended	SB 161
338.150	Amended	HB 412	348.412	Amended	SB 161
338.150	Amended	SB 325	351.340	Amended	HB 111
338.210	Amended	HB 412	351.408	New	SB 366
338.210	Amended	SB 325	351.409	New	SB 366
338.220	Amended	HB 412	351.658	Amended	SB 366
338.220	Amended	SB 325	351.1000	New	SB 366
338.240	Amended	HB 412	351.1003	New	SB 366
338.240	Amended	SB 325	351.1006	New	SB 366
338.315	Amended	SB 325	351.1009	New	SB 366
338.330	Amended	HB 412	351.1012	New	SB 366
338.330	Amended	SB 284	351.1015	New	SB 366
338.330	Amended	SB 325	351.1018	New	SB 366
338.400	New	HB 552	351.1021	New	SB 366
338.550	Amended	SB 62	351.1024	New	SB 366
339.040	Repealed	HB 315	351.1027	New	SB 366
339.190	Amended	HB 220	351.1030	New	SB 366
339.190	Amended	SB 325	351.1033	New	SB 366
344.060	Amended	HB 464	351.1036	New	SB 366

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351.1039	New	SB 366		351.1105	New	SB 366
351.1042	New	SB 366		351.1108	New	SB 366
351.1045	New	SB 366		351.1111	New	SB 366
351.1048	New	SB 366		351.1114	New	SB 366
351.1051	New	SB 366		351.1117	New	SB 366
351.1054	New	SB 366		351.1120	New	SB 366
351.1057	New	SB 366		351.1123	New	SB 366
351.1060	New	SB 366		351.1126	New	SB 366
351.1063	New	SB 366		351.1129	New	SB 366
351.1066	New	SB 366		351.1132	New	SB 366
351.1069	New	SB 366		351.1135	New	SB 366
351.1072	New	SB 366		351.1138	New	SB 366
351.1075	New	SB 366		351.1141	New	SB 366
351.1078	New	SB 366		351.1144	New	SB 366
351.1081	New	SB 366		351.1147	New	SB 366
351.1084	New	SB 366		351.1150	New	SB 366
351.1087	New	SB 366		351.1153	New	SB 366
351.1090	New	SB 366		351.1156	New	SB 366
351.1093	New	SB 366		351.1159	New	SB 366
351.1096	New	SB 366		351.1162	New	SB 366
351.1099	New	SB 366		351.1165	New	SB 366
351.1102	New	SB 366		351.1168	New	SB 366

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351.1171	New	SB 366	361.092	Amended	HB 464
351.1174	New	SB 366	361.093	Amended	HB 464
351.1177	New	SB 366	361.094	Amended	HB 464
351.1180	New	SB 366	361.095	Amended	HB 464
351.1183	New	SB 366	361.096	Amended	HB 464
351.1186	New	SB 366	361.097	Amended	HB 464
351.1189	New	SB 366	361.098	Amended	HB 464
351.1192	New	SB 366	361.105	Amended	HB 464
351.1195	New	SB 366	361.170	Repealed	HB 315
351.1198	New	SB 366	362.040	Amended	HB 464
351.1201	New	SB 366	362.105	Amended	HB 464
351.1204	New	SB 366	362.111	Amended	HB 83
351.1207	New	SB 366	362.111	Amended	HB 464
351.1210	New	SB 366	362.325	Amended	HB 464
351.1213	New	SB 366	369.014	Amended	HB 464
351.1216	New	SB 366	369.024	Amended	HB 464
351.1219	New	SB 366	369.144	Amended	HB 464
351.1222	New	SB 366	369.159	Amended	HB 464
351.1225	New	SB 366	369.294	Amended	HB 464
351.1227	New	SB 366	369.299	Amended	HB 464
351.1228	New	SB 366	369.304	Repealed	HB 464
361.070	Amended	HB 464	369.309	Repealed	HB 464

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369.314	Amended	HB 464	370.165	New	SB 306
369.319	Repealed	HB 464	370.310	Vetoed	HB 465
369.329	Amended	HB 464	370.310	Amended	SB 306
370.073	Amended	HB 83	370.320	Vetoed	HB 465
370.100	Vetoed	HB 465	370.320	Amended	SB 306
370.100	Amended	SB 306	370.353	Vetoed	HB 465
370.101	Vetoed	HB 465	370.353	Amended	SB 306
370.101	New	SB 306	370.359	Vetoed	HB 465
370.102	Vetoed	HB 465	370.359	Amended	SB 306
370.102	New	SB 306	371.060	Amended	HB 464
370.107	Repealed	HB 315	371.090	Amended	HB 464
370.157	Vetoed	HB 465	371.240	Amended	HB 464
370.157	Amended	SB 306	375.916	Amended	SB 132
370.161	Vetoed	HB 465	376.1190	New	SB 62
370.161	New	SB 306	376.1250	Amended	HB 388
370.162	Vetoed	HB 465	376.1500	Repealed	HB 315
370.162	New	SB 306	379.108	New	HB 407
370.163	Vetoed	HB 465	379.1500	New	SB 132
370.163	New	SB 306	379.1505	New	SB 132
370.164	Vetoed	HB 465	379.1510	New	SB 132
370.164	New	SB 306	379.1515	New	SB 132
370.165	Vetoed	HB 465	379.1520	New	SB 132

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<b>SECTION</b>	<b>ACTION</b>	<b>BILL</b>	<b>SECTION</b>	<b>ACTION</b>	<b>BILL</b>
379.1525	New	SB 132	386.510	Amended	SB 48
379.1530	New	SB 132	386.515	Amended	SB 48
379.1535	New	SB 132	386.520	Amended	SB 48
379.1540	New	SB 132	386.530	Amended	SB 48
379.1545	New	SB 132	386.540	Amended	SB 48
379.1550	New	SB 132	386.850	Repealed	HB 89
384.015	Amended	SB 132	387.040	Vetoed	HB 430
384.017	Amended	SB 132	387.050	Vetoed	HB 430
384.021	Amended	SB 132	387.080	Vetoed	HB 430
384.043	Amended	SB 132	387.110	Vetoed	HB 430
384.051	Amended	SB 132	387.137	Vetoed	HB 430
384.057	Amended	SB 132	387.139	Vetoed	HB 430
384.061	Amended	SB 132	387.207	Vetoed	HB 430
385.200	Amended	SB 132	387.355	Vetoed	HB 430
385.205	New	SB 132	390.051	Vetoed	HB 430
385.206	Amended	SB 132	390.054	Vetoed	HB 430
385.207	New	SB 132	390.061	Vetoed	HB 430
385.208	Amended	SB 132	390.116	Vetoed	HB 430
385.209	New	SB 132	390.280	Vetoed	HB 430
385.211	New	SB 132	392.460	Amended	HB 339
386.420	Amended	SB 48	392.461	New	HB 338
386.490	Amended	SB 48	393.015	Amended	SB 48

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393.152	New	SB 48		408.140	Amended	SB 83
393.906	Repealed	HB 315		408.233	Amended	SB 83
393.921	Repealed	HB 315		408.300	Amended	SB 83
402.199	Amended	SB 70		408.380	New	SB 83
402.200	Amended	SB 70		411.280	Amended	HB 458
402.201	New	SB 70		411.280	Amended	SB 356
402.202	New	SB 70		414.072	Amended	SB 135
402.203	New	SB 70		425.010	Amended	HB 661
402.204	New	SB 70		425.020	Amended	HB 661
402.205	Amended	SB 70		425.025	Amended	HB 661
402.206	New	SB 70		425.027	Amended	HB 661
402.207	New	SB 70		425.040	Amended	HB 661
402.208	New	SB 70		425.043	New	HB 661
402.210	Amended	HB 648		429.015	Vetoed	SB 220
402.210	Repealed	SB 70		429.015	Amended	SB 325
402.215	Repealed	SB 70		436.405	Amended	HB 265
402.217	Repealed	SB 70		436.405	Amended	SB 325
402.220	Repealed	SB 70		436.412	Amended	HB 265
404.710	Amended	SB 59		436.412	Amended	SB 325
407.500	Repealed	HB 294		436.445	Amended	HB 265
407.505	Repealed	HB 294		436.445	Amended	SB 325
407.725	New	SB 101		436.450	Amended	HB 265



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436.450	Amended	SB 325	454.857	Repealed	HB 260
436.455	Amended	HB 265	454.860	Repealed	HB 260
436.455	Amended	SB 325	454.862	Repealed	HB 260
436.456	Amended	HB 265	454.865	Repealed	HB 260
436.456	Amended	SB 325	454.867	Repealed	HB 260
441.236	Repealed	HB 315	454.869	Repealed	HB 260
442.014	New	HB 89	454.871	Repealed	HB 260
442.014	New	HB 458	454.874	Repealed	HB 260
444.771	New	HB 89	454.877	Repealed	HB 260
444.771	Vetoed	HB 430	454.880	Repealed	HB 260
444.773	Amended	HB 89	454.882	Repealed	HB 260
452.340	Amended	HB 111	454.885	Repealed	HB 260
452.375	Amended	SB 320	454.887	Repealed	HB 260
453.070	Amended	HB 555	454.890	Repealed	HB 260
453.070	Amended	HB 604	454.892	Repealed	HB 260
453.070	Amended	HB 648	454.895	Repealed	HB 260
453.121	Amended	SB 351	454.897	Repealed	HB 260
453.600	New	HB 431	454.900	Repealed	HB 260
453.600	New	HB 604	454.902	Repealed	HB 260
454.850	Repealed	HB 260	454.905	Repealed	HB 260
454.853	Repealed	HB 260	454.907	Repealed	HB 260
454.855	Repealed	HB 260	454.910	Repealed	HB 260

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454.912	Repealed	HB 260		454.968	Repealed	HB 260
454.915	Repealed	HB 260		454.971	Repealed	HB 260
454.917	Repealed	HB 260		454.973	Repealed	HB 260
454.920	Repealed	HB 260		454.976	Repealed	HB 260
454.922	Repealed	HB 260		454.978	Repealed	HB 260
454.927	Repealed	HB 260		454.981	Repealed	HB 260
454.930	Repealed	HB 260		454.983	Repealed	HB 260
454.932	Repealed	HB 260		454.986	Repealed	HB 260
454.934	Repealed	HB 260		454.989	Repealed	HB 260
454.936	Repealed	HB 260		454.991	Repealed	HB 260
454.938	Repealed	HB 260		454.993	Repealed	HB 260
454.941	Repealed	HB 260		454.995	Repealed	HB 260
454.943	Repealed	HB 260		454.999	Repealed	HB 260
454.946	Repealed	HB 260		454.1500	New	HB 260
454.948	Repealed	HB 260		454.1503	New	HB 260
454.951	Repealed	HB 260		454.1506	New	HB 260
454.953	Repealed	HB 260		454.1509	New	HB 260
454.956	Repealed	HB 260		454.1512	New	HB 260
454.958	Repealed	HB 260		454.1515	New	HB 260
454.961	Repealed	HB 260		454.1518	New	HB 260
454.963	Repealed	HB 260		454.1521	New	HB 260
454.966	Repealed	HB 260		454.1524	New	HB 260

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454.1527	New	HB 260	454.1593	New	HB 260
454.1530	New	HB 260	454.1596	New	HB 260
454.1533	New	HB 260	454.1599	New	HB 260
454.1536	New	HB 260	454.1602	New	HB 260
454.1539	New	HB 260	454.1605	New	HB 260
454.1542	New	HB 260	454.1608	New	HB 260
454.1545	New	HB 260	454.1611	New	HB 260
454.1548	New	HB 260	454.1614	New	HB 260
454.1551	New	HB 260	454.1617	New	HB 260
454.1554	New	HB 260	454.1620	New	HB 260
454.1557	New	HB 260	454.1623	New	HB 260
454.1560	New	HB 260	454.1626	New	HB 260
454.1563	New	HB 260	454.1629	New	HB 260
454.1566	New	HB 260	454.1632	New	HB 260
454.1569	New	HB 260	454.1635	New	HB 260
454.1572	New	HB 260	454.1638	New	HB 260
454.1575	New	HB 260	454.1641	New	HB 260
454.1578	New	HB 260	454.1644	New	HB 260
454.1581	New	HB 260	454.1647	New	HB 260
454.1584	New	HB 260	454.1650	New	HB 260
454.1587	New	HB 260	454.1653	New	HB 260
454.1590	New	HB 260	454.1656	New	HB 260

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454.1659	New	HB 260		454.1725	New	HB 260
454.1662	New	HB 260		454.1727	New	HB 260
454.1665	New	HB 260		454.1728	New	HB 260
454.1668	New	HB 260		454.1730	New	HB 260
454.1671	New	HB 260		455.007	New	HB 111
454.1674	New	HB 260		455.010	Amended	SB 320
454.1677	New	HB 260		455.020	Amended	SB 320
454.1680	New	HB 260		455.027	Amended	SB 320
454.1683	New	HB 260		455.035	Amended	SB 320
454.1686	New	HB 260		455.038	Amended	SB 320
454.1689	New	HB 260		455.040	Amended	SB 320
454.1692	New	HB 260		455.050	Amended	SB 320
454.1695	New	HB 260		455.060	Amended	SB 320
454.1698	New	HB 260		455.085	Amended	SB 320
454.1701	New	HB 260		455.200	Amended	SB 320
454.1704	New	HB 260		455.501	Repealed	SB 320
454.1707	New	HB 260		455.505	Amended	SB 320
454.1710	New	HB 260		455.513	Amended	SB 320
454.1713	New	HB 260		455.516	Amended	SB 320
454.1716	New	HB 260		455.520	Amended	SB 320
454.1719	New	HB 260		455.523	Amended	SB 320
454.1722	New	HB 260		455.538	Amended	SB 320

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455.540	Repealed	SB 320	475.115	Amended	HB 142
455.543	Amended	SB 320	475.115	Amended	SB 57
455.549	New	SB 320	475.115	Amended	SB 59
455.800	New	SB 320	475.121	Amended	HB 555
456.3.301	Amended	SB 59	475.121	Amended	HB 648
456.4.419	New	SB 59	475.355	Amended	HB 555
456.5.505	Amended	SB 59	475.355	Amended	HB 648
456.5.508	New	SB 59	475.501	New	HB 111
456.8.813	Amended	SB 59	475.501	New	SB 59
469.411	Amended	SB 59	475.501	New	SB 213
469.437	Amended	SB 59	475.502	New	HB 111
469.459	Amended	SB 59	475.502	New	SB 59
470.270	Repealed	HB 315	475.502	New	SB 213
473.657	Amended	SB 70	475.503	New	HB 111
475.060	Amended	HB 111	475.503	New	SB 59
475.060	Amended	SB 59	475.503	New	SB 213
475.060	Amended	SB 213	475.504	New	HB 111
475.061	Amended	HB 111	475.504	New	SB 59
475.061	Amended	SB 59	475.504	New	SB 213
475.061	Amended	SB 213	475.505	New	HB 111
475.093	Amended	SB 70	475.505	New	SB 59
475.115	Amended	HB 111	475.505	New	SB 213

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475.506	New	HB 111	475.527	New	SB 59
475.506	New	SB 59	475.527	New	SB 213
475.506	New	SB 213	475.528	New	HB 111
475.521	New	HB 111	475.528	New	SB 59
475.521	New	SB 59	475.528	New	SB 213
475.521	New	SB 213	475.529	New	HB 111
475.522	New	HB 111	475.529	New	SB 59
475.522	New	SB 59	475.529	New	SB 213
475.522	New	SB 213	475.531	New	HB 111
475.523	New	HB 111	475.531	New	SB 59
475.523	New	SB 59	475.531	New	SB 213
475.523	New	SB 213	475.532	New	HB 111
475.524	New	HB 111	475.532	New	SB 59
475.524	New	SB 59	475.532	New	SB 213
475.524	New	SB 213	475.541	New	HB 111
475.525	New	HB 111	475.541	New	SB 59
475.525	New	SB 59	475.541	New	SB 213
475.525	New	SB 213	475.542	New	HB 111
475.526	New	HB 111	475.542	New	SB 59
475.526	New	SB 59	475.542	New	SB 213
475.526	New	SB 213	475.543	New	HB 111
475.527	New	HB 111	475.543	New	SB 59

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475.543	New	SB 213	483.420	Amended	HB 340
475.544	New	HB 111	484.350	Amended	HB 111
475.544	New	SB 59	484.350	Amended	SB 237
475.544	New	SB 213	516.098	Vetoed	SB 220
475.551	New	HB 111	516.098	Amended	SB 325
475.551	New	SB 59	523.040	Amended	HB 111
475.551	New	SB 213	527.290	Amended	SB 320
475.552	New	HB 111	536.063	Amended	HB 265
475.552	New	SB 59	536.067	Amended	HB 265
475.552	New	SB 213	536.070	Amended	HB 265
475.555	New	HB 111	536.310	Amended	HB 464
475.555	New	SB 59	537.033	Vetoed	SB 220
475.555	New	SB 213	537.293	Vetoed	HB 430
476.537	Amended	HB 555	537.296	Vetoed	HB 209
476.537	Amended	HB 648	537.296	Amended	SB 187
477.650	Amended	HB 111	537.620	Vetoed	HB 184
477.650	Vetoed	HB 256	537.620	Amended	SB 57
477.650	Amended	SB 165	537.635	Vetoed	HB 184
478.711	Amended	HB 340	544.455	Amended	HB 111
479.011	Amended	HB 142	544.470	Amended	HB 111
482.305	Amended	SB 59	552.015	Amended	HB 555
482.315	Amended	SB 59	552.015	Amended	HB 648

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552.020	Amended	HB 555	570.080	Amended	HB 111
552.020	Amended	HB 648	571.020	Amended	HB 294
552.030	Amended	HB 555	571.030	Amended	HB 294
552.030	Amended	HB 648	571.063	New	HB 294
552.040	Amended	HB 555	571.085	New	HB 294
552.040	Amended	HB 648	571.087	New	HB 294
556.037	Amended	SB 54	571.101	Amended	HB 294
557.011	Amended	HB 111	571.107	Amended	HB 294
565.074	Amended	SB 320	571.111	Amended	HB 294
565.082	Repealed	HB 315	571.117	Amended	HB 294
566.086	Amended	HB 111	577.023	Amended	HB 199
566.147	Amended	HB 111	577.023	Vetoed	HB 430
566.147	Amended	SB 250	578.150	Amended	HB 111
566.200	Amended	HB 214	589.040	Amended	HB 111
566.203	Amended	HB 214	589.040	Amended	SB 250
566.206	Amended	HB 214	589.683	Amended	SB 320
566.209	Amended	HB 214	595.100	Amended	SB 320
566.212	Amended	HB 214	595.220	Amended	SB 320
566.213	Amended	HB 214	620.580	New	HB 464
566.218	Amended	HB 214	620.582	New	HB 464
566.223	Amended	HB 214	620.584	New	HB 464
568.040	Amended	HB 111	620.586	New	HB 464



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620.588	New	HB 464	630.053	Amended	HB 557
620.590	New	HB 464	630.053	Amended	HB 648
620.592	New	HB 464	630.095	Amended	HB 555
620.638	Amended	HB 464	630.095	Amended	HB 557
620.641	Amended	HB 464	630.095	Amended	HB 648
620.644	Amended	HB 464	630.097	Amended	HB 555
620.647	Amended	HB 464	630.097	Amended	HB 648
620.650	Amended	HB 464	630.120	Amended	HB 555
620.653	Amended	HB 464	630.120	Amended	HB 648
620.2300	New	HB 89	630.165	Amended	HB 555
620.2300	New	SB 48	630.165	Amended	HB 648
621.045	Amended	HB 265	630.167	Amended	HB 555
621.100	Amended	HB 265	630.167	Amended	HB 648
621.110	Amended	HB 265	630.183	Amended	HB 555
621.250	Amended	HB 89	630.183	Amended	HB 648
630.003	Amended	HB 555	630.192	Amended	HB 555
630.003	Amended	HB 648	630.192	Amended	HB 648
630.005	Amended	HB 555	630.210	Amended	HB 555
630.005	Amended	HB 648	630.210	Amended	HB 648
630.010	Amended	HB 555	630.335	Amended	HB 555
630.010	Amended	HB 648	630.335	Amended	HB 648
630.053	Amended	HB 555	630.405	Amended	HB 555

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630.405	Amended	HB 648	632.020	Amended	HB 464
630.425	Amended	HB 555	632.105	Amended	HB 555
630.425	Amended	HB 648	632.105	Amended	HB 648
630.510	Amended	HB 555	632.110	Amended	HB 555
630.510	Amended	HB 648	632.110	Amended	HB 648
630.605	Amended	HB 555	632.115	Amended	HB 555
630.605	Amended	HB 648	632.115	Amended	HB 648
630.610	Amended	HB 555	632.120	Amended	HB 555
630.610	Amended	HB 648	632.120	Amended	HB 648
630.635	Amended	HB 555	632.312	New	HB 111
630.635	Amended	HB 648	632.370	Amended	HB 555
630.705	Amended	HB 555	632.370	Amended	HB 648
630.705	Amended	HB 648	632.380	Amended	HB 555
630.715	Amended	HB 555	632.380	Amended	HB 648
630.715	Amended	HB 648	633.005	Amended	HB 555
630.735	Amended	HB 555	633.005	Amended	HB 648
630.735	Amended	HB 648	633.010	Amended	HB 555
630.900	Repealed	HB 464	633.010	Amended	HB 648
630.910	Repealed	HB 464	633.020	Amended	HB 555
630.915	Repealed	HB 464	633.020	Amended	HB 648
632.005	Amended	HB 555	633.029	Amended	HB 555
632.005	Amended	HB 648	633.029	Amended	HB 648

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633.030	Amended	HB 555	633.150	Amended	HB 555
633.030	Amended	HB 648	633.150	Amended	HB 648
633.045	Amended	HB 555	633.155	Amended	HB 555
633.045	Amended	HB 648	633.155	Amended	HB 648
633.050	Amended	HB 555	633.160	Amended	HB 555
633.050	Amended	HB 648	633.160	Amended	HB 648
633.110	Amended	HB 555	633.180	Amended	HB 555
633.110	Amended	HB 648	633.180	Amended	HB 648
633.115	Amended	HB 555	633.185	Amended	HB 555
633.115	Amended	HB 648	633.185	Amended	HB 648
633.120	Amended	HB 555	633.190	Amended	HB 555
633.120	Amended	HB 648	633.190	Amended	HB 648
633.125	Amended	HB 555	633.210	Amended	HB 555
633.125	Amended	HB 648	633.210	Amended	HB 648
633.130	Amended	HB 555	633.300	Amended	HB 555
633.130	Amended	HB 648	633.300	Amended	HB 648
633.135	Amended	HB 555	633.303	Amended	HB 555
633.135	Amended	HB 648	633.303	Amended	HB 648
633.140	Amended	HB 555	633.309	Amended	HB 555
633.140	Amended	HB 648	633.309	Amended	HB 648
633.145	Amended	HB 555	633.401	Amended	SB 62
633.145	Amended	HB 648	640.018	New	HB 89

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640.045	New	HB 190	643.260	Repealed	HB 89
640.116	New	HB 250	643.315	Amended	HB 354
640.116	New	SB 135	644.031	Repealed	HB 315
640.128	New	HB 89	644.036	Amended	HB 89
640.850	New	HB 89	644.051	Amended	HB 89
640.905	New	SB 135	644.054	Amended	HB 89
643.020	Amended	HB 89	644.071	Amended	HB 89
643.040	Amended	HB 89	644.145	New	HB 89
643.050	Amended	HB 89	644.568	Repealed	HB 315
643.060	Amended	HB 89	660.010	Amended	HB 464
643.079	Amended	HB 89	700.350	Amended	HB 550
643.080	Amended	HB 89	701.033	Amended	HB 89
643.130	Amended	HB 89	701.058	New	HB 89
643.191	Amended	HB 89	701.302	Repealed	HB 464
643.225	Amended	HB 89	701.332	Repealed	HB 89
643.232	Amended	HB 89	1	New	HB 73
643.237	Amended	HB 89	1	New	HB 89
643.240	Amended	HB 89	1	New	HB 137
643.242	Amended	HB 89	1	New	HB 294
643.245	Amended	HB 89	1	New	HB 423
643.250	Amended	HB 89	1	Vetoed	HB 430
643.253	Repealed	HB 89	1	New	SB 59

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1	New	SB 62		5	New	SB 96
1	New	SB 96		6	New	HB 137
1	New	SB 97		6	New	HB 423
1	New	SB 113		6	New	SB 96
1	New	SB 117		7	New	HB 137
1	New	SB 135		7	New	HB 423
1	New	SB 161		7	New	SB 96
1	Vetoed	SB 188		8	New	HB 137
2	New	HB 137		8	New	HB 423
2	New	HB 423		8	New	SB 96
2	New	SB 96		9	New	HB 137
2	New	SB 97		9	New	HB 423
3	New	HB 137		9	New	SB 96
3	New	HB 423		10	New	HB 137
3	New	SB 96		10	New	SB 96
3	New	SB 97		11	New	HB 137
4	New	HB 137		11	New	SB 96
4	New	HB 423		12	New	HB 137
4	New	SB 96		12	New	SB 96
4	New	SB 97		13	New	HB 137
5	New	HB 137		13	New	SB 96
5	New	HB 423		14	New	HB 137

TABLE OF SECTIONS AFFECTED  
BY  
2011 LEGISLATION, FIRST REGULAR SESSION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
14	New	SB 96	20	New	SB 96
15	New	HB 137	21	New	HB 137
15	New	SB 96	21	New	SB 96
16	New	HB 137	22	New	HB 137
16	New	SB 96	22	New	SB 96
17	New	HB 137	23	New	HB 137
17	New	SB 96	23	New	SB 96
18	New	HB 137	24	New	HB 137
18	New	SB 96	24	New	SB 96
19	New	HB 137	25	New	SB 96
19	New	SB 96	26	New	SB 96
20	New	HB 137	27	New	SB 96

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TABLE OF SECTIONS AFFECTED  
BY  
2011 LEGISLATION, FIRST EXTRAORDINARY SESSION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
162.069	Amended	SB 1	348.262	Amended	SB 7
196.1109	Amended	SB 7	348.263	Amended	SB 7
196.1115	Amended	SB 7	348.264	Amended	SB 7
348.250	New	SB 7	348.265	New	SB 7
348.251	Amended	SB 7	348.269	New	SB 7
348.253	Repealed	SB 7	348.271	Amended	SB 7
348.256	Amended	SB 7	348.280	New	SB 7
348.257	New	SB 7	348.300	Amended	SB 7
348.261	Amended	SB 7			

Senate Bill 1 and Senate Bill 7  
enacted during the  
First Extraordinary Session  
of the 96th General Assembly  
became effective February 3, 2012.



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**LAWS PASSED**

**BY ELECTIONS**

**DURING 2010**

**Statutory Initiative Petitions**

Proposition C, August 3, 2010.....	2
Proposition A, November 2, 2010. ....	4
Proposition B, November 2, 2010. ....	10

**Constitutional Amendments, November 2, 2010**

Constitutional Amendment 1 (SJR 5).....	12
Constitutional Amendment 2 (HJR 15). ....	15
Constitutional Amendment 3 (Initiative Petition).....	17

**ADOPTED AUGUST 3, 2010**

**PROPOSITION C.** — (Proposed by the 95th General Assembly, Second Regular Session - SS SCS HCS HB 1764) Shall the Missouri Statutes be amended to:

•Deny the government authority to penalize citizens for refusing to purchase private health insurance or infringe upon the right to offer or accept direct payment for lawful healthcare services?

•Modify laws regarding the liquidation of certain domestic insurance companies?

It is estimated this proposal will have no immediate costs or savings to state or local governmental entities. However, because of the uncertain interaction of the proposal with implementation of the federal Patient Protection and Affordable Care Act, future costs to state governmental entities are unknown.

**SECTION**

A. Enacting clause.

1.330. Health care, no requirement to participate, no penalties — purchase or sale of health insurance in private system not prohibited — definitions.

375.1175. Grounds for liquidation — voluntary dissolution and liquidation, conditions.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Section 375.1175, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 1.330 and 375.1175, to read as follows:

**1.330. HEALTH CARE, NO REQUIREMENT TO PARTICIPATE, NO PENALTIES — PURCHASE OR SALE OF HEALTH INSURANCE IN PRIVATE SYSTEM NOT PROHIBITED — DEFINITIONS. —**

1. No law or rule shall compel, directly or indirectly, any person, employer, or health care provider to participate in any health care system.

2. A person or employer may pay directly for lawful health care services and shall not be required by law or rule to pay penalties or fines for paying directly for lawful health care services. A health care provider may accept direct payment for lawful health care services and shall not be required by law or rule to pay penalties or fines for accepting direct payment from a person or employer for lawful health care services.

3. Subject to reasonable and necessary rules that do not substantially limit a person's options, the purchase or sale of health insurance in private health care systems shall not be prohibited by law or rule.

4. This section does not:

(1) Affect which health care services a health care provider or hospital is required to perform or provide;

(2) Affect which health care services are permitted by law;

(3) Prohibit care provided under workers' compensation as provided under state law;

(4) Affect laws or regulations in effect as of January 1, 2010;

(5) Affect the terms or conditions of any health care system to the extent that those terms and conditions do not have the effect of punishing a person or employer for paying directly for lawful health care services or a health care provider or hospital for accepting direct payment from a person or employer for lawful health care services.

5. As used in this section, the following terms shall mean:

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- (1) "Compel", any penalties or fines;
- (2) "Direct payment or pay directly", payment for lawful health care services without a public or private third party, not including an employer, paying for any portion of the service;
- (3) "Health care system", any public or private entity whose function or purpose is the management of, processing of, enrollment of individuals for or payment for, in full or in part, health care services or health care data or health care information for its participants;
- (4) "Lawful health care services", any health-related service or treatment to the extent that the service or treatment is permitted or not prohibited by law or regulation that may be provided by persons or businesses otherwise permitted to offer such services; and
- (5) "Penalties or fines", any civil or criminal penalty or fine, tax, salary or wage withholding or surcharge or any named fee with a similar effect established by law or rule by a government established, created or controlled agency that is used to punish or discourage the exercise of rights protected under this section.

**375.1175. GROUNDS FOR LIQUIDATION — VOLUNTARY DISSOLUTION AND LIQUIDATION, CONDITIONS. — 1.** The director may petition the court for an order directing him to liquidate a domestic insurer or an alien insurer domiciled in this state on the basis:

- (1) Of any ground for an order of rehabilitation as specified in section 375.1165, whether or not there has been a prior order directing the rehabilitation of the insurer;
- (2) That the insurer is insolvent;
- (3) That the insurer is in such condition that the further transaction of business would be hazardous, financially or otherwise, to its policyholders, its creditors or the public;
- (4) That the insurer is found to be in such condition after examination that it could not meet the requirements for incorporation and authorization specified in the law under which it was incorporated or is doing business; or
- (5) That the insurer has ceased to transact the business of insurance for a period of one year.

**2. Notwithstanding any other provision of this chapter, a domestic insurer organized as a stock insurance company may voluntarily dissolve and liquidate as a corporation under sections 351.462 to 351.482, provided that:**

**(1) The director, in his or her sole discretion, approves the articles of dissolution prior to filing such articles with the secretary of state. In determining whether to approve or disapprove the articles of dissolution, the director shall consider, among other factors, whether:**

- (a) The insurer's annual financial statements filed with the director show no written insurance premiums for five years; and**
- (b) The insurer has demonstrated that all policyholder claims have been satisfied or have been transferred to another insurer in a transaction approved by the director; and**
- (c) An examination of the insurer pursuant to sections 374.202 to 374.207 has been completed within the last five years; and**

**(2) The domestic insurer files with the secretary of state a copy of the director's approval, certified by the director, along with articles of dissolution as provided in section 351.462 or 351.468.**

Adopted August 3, 2010. (For — 669,847; Against — 272,723)  
Effective August 3, 2010.

**ADOPTED NOVEMBER 2, 2010****PROPOSED BY INITIATIVE PETITION**

**PROPOSITION A.** — (Proposed by Initiative Petition) Shall Missouri law be amended to:

- repeal the authority of certain cities to use earnings taxes to fund their budgets;
- require voters in cities that currently have an earnings tax to approve continuation of such tax at the next general municipal election and at an election held every 5 years thereafter;
- require any current earnings tax that is not approved by the voters to be phased out over a period of 10 years; and
- prohibit any city from adding a new earnings tax to fund their budget?

The proposal could eliminate certain city earnings taxes. For 2010, Kansas City and the City of St. Louis budgeted earnings tax revenue of \$199.2 million and \$141.2 million, respectively. Reduced earnings tax deductions could increase state revenues by \$4.8 million. The total cost or savings to state and local governmental entities is unknown.

**SECTION**

- A. Enacting clause.
- 92.105. Intent clause.
- 92.110. Limitation on imposition of earnings tax—definitions.
- 92.112. Definition of salaries, wages, commissions and other compensation.
- 92.115. Constitutional charter cities—requirements—ballot language.
- 92.125. Reduction of earnings tax, when, amount.

*Be it enacted by the people of the State of Missouri:*

**SECTION A. ENACTING CLAUSE.** — Sections 92.110, 92.112, 92.210, 92.220, 92.230, 92.240, 92.250, 92.260, 92.270, 92.280, 92.290 and 92.300 are repealed and five new sections enacted thereof to be known as sections 92.105, 92.110, 92.112, 92.115, and 92.125 to read as follows:

**92.105. INTENT CLAUSE.** — It is the intent of sections 92.105 to 92.125 that starting in 2011, voters in any city imposing an earnings tax will decide in local elections to continue the earnings tax. If the majority of local voters vote to continue the earnings tax, it will continue for five years and then will be voted on again. If a majority of voters in any city having an earnings tax vote against continuing the earnings tax, it will be phased out pursuant to section 92.125 in such city over a period of ten years. Further, sections 92.105 to 92.125 prohibit any Missouri city or town that does not, as of the effective date of this section impose an earnings tax, from imposing such a tax on residents and businesses.

**92.110. LIMITATION ON IMPOSITION OF EARNINGS TAX—DEFINITIONS.** — 1 After December 31, 2011, no city, including any constitutional charter city, shall impose or levy an earnings tax, except, a constitutional charter city that imposed or levied an earnings tax on the effective date of this section may continue to impose the earnings tax if it submits to the voters of such city pursuant to section 92.115, the question whether to continue such earnings tax for a period of five years and a majority of such qualified voters voting thereon approve such question, however, if no such election is held, or if in any election held to continue to impose or

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levy the earnings tax a majority of such qualified voters voting thereon fail to approve the continuation of the earnings tax, such city shall no longer be authorized to impose or levy such earnings tax except to reduce such tax in the manner provided by section 92.125.

2. As used in sections 92.110 to 92.200, unless the context clearly requires otherwise, the term "earnings tax" means a tax on the:

- (a) salaries, wages, commissions and other compensation earned by its residents;
- (b) salaries, wages, commissions and other compensation earned by nonresidents of the city for work done or services performed or rendered in the city;
- (c) net profits of associations, businesses or other activities conducted by residents;
- (d) net profits of associations, businesses or other activities conducted in the city by nonresidents;
- (e) net profits earned by all corporations as the result of work done or services performed or rendered and business or other activities;

**92.112. DEFINITION OF SALARIES, WAGES, COMMISSIONS AND OTHER COMPENSATION.**

— 1 As referred to in section 92.110, the term salaries, wages, commissions and other compensation shall not include any contributions to any deferred compensation plans, including but not limited to, any salary reduction plans, cafeteria plans or any other similar plans deferring the receipt of compensation by a resident or nonresident if such contribution is not subject to Missouri state income tax at the time such contribution is made.

**92.115. CONSTITUTIONAL CHARTER CITIES—REQUIREMENTS—BALLOT LANGUAGE.**

— 1 Any constitutional charter city which as of the effective date of this section imposed or levied an earnings tax, may continue to impose or levy an earnings tax, pursuant to sections 92.110 to 92.200, if it submits to the qualified voters of such city on the next general municipal election date immediately following the effective date of this section, and once every five years thereafter, the question whether to continue to impose and levy the earnings tax authorized pursuant to sections 92.110 to 92.200, and if a majority of qualified voters voting approve the continuance of the earnings tax at such election.

2. The question submitted to the qualified voters in any such city shall contain the earnings tax percentage imposed and the name of the city submitting the question and shall otherwise contain exactly the following language:

Shall the earnings tax of \_\_\_\_%, imposed by the City of \_\_\_\_\_, be continued for a period of five (5) years commencing January 1 immediately following the date of this election?

\_\_\_\_\_ Yes \_\_\_\_\_ No

3. If the question whether to continue to impose and levy the earnings tax fails to be approved by the majority of qualified voters voting thereon, the earnings tax levied and imposed on the effective date of this section shall be reduced pursuant to section 92.125 commencing January 1 of the calendar year following the date of the election held under this section or January 1 of the calendar year following the calendar year in which such election was authorized under this section but not held by such city.

4. No city which has begun reductions of its earnings tax pursuant to section 92.125 may, by ordinance or any other means, with or without voter approval, stop or suspend such reduction.

**92.125. REDUCTION OF EARNINGS TAX, WHEN, AMOUNT.** If no election is held pursuant to section 92.115, or if in an election held to continue to impose or levy the earnings tax a majority of such qualified voters fail to approve the continuance of the earnings tax, the earnings tax levied and imposed on the effective date of this section shall be reduced as follows:

(1) Beginning January 1 of the first calendar year following the calendar year in which the election provided for in section 92.115 was held or the calendar year in which the election

provided for in section 92.115 was authorized to be held but was not held, the earnings tax shall not be in excess of nine-tenths of one percent;

(2) Beginning January 1 of the second calendar year following the calendar year in which the election provided for in section 92.115 was held or the calendar year in which the election provided for in section 92.115 was authorized to be held but was not held, the earnings tax shall not be in excess of eight-tenths of one percent;

(3) Beginning January 1 of the third calendar year following the calendar year in which the election provided for in section 92.115 was held or the calendar year in which the election provided for in section 92.115 was authorized to be held but was not held, the earnings tax shall not be in excess of seven-tenths of one percent;

(4) Beginning January 1 of the fourth calendar year following the calendar year in which the election provided for in section 92.115 was held or the calendar year in which the election provided for in section 92.115 was authorized to be held but was not held, the earnings tax shall not be in excess of six-tenths of one percent;

(5) Beginning January 1 of the fifth calendar year following the calendar year in which the election provided for in section 92.115 was held or the calendar year in which the election provided for in section 92.115 was authorized to be held but was not held, the earnings tax shall not be in excess of one-half of one percent;

(6) Beginning January 1 of the sixth calendar year following the calendar year in which the election provided for in section 92.115 was held or the calendar year in which the election provided for in section 92.115 was authorized to be held but was not held, the earnings tax shall not be in excess of four-tenths of one percent;

(7) Beginning January 1 of the seventh calendar year following the calendar year in which the election provided for in section 92.115 was held or the calendar year in which the election provided for in section 92.115 was authorized to be held but was not held, the earnings tax shall not be in excess of three-tenths of one percent;

(8) Beginning January 1 of the eighth calendar year following the calendar year in which the election provided for in section 92.115 was held or the calendar year in which the election provided for in section 92.115 was authorized to be held but was not held, the earnings tax shall not be in excess of two-tenths of one percent;

(9) Beginning January 1 of the ninth calendar year following the calendar year in which the election provided for in section 92.115 was held or the calendar year in which the election provided for in section 92.115 was authorized to be held but was not held, the earnings tax shall not be in excess of one-tenth of one percent;

(10) After the ninth calendar year following the calendar year in which the election provided for in section 92.115 was held or the calendar year in which the election provided for in section 92.115 was authorized to be held but was not held, notwithstanding any provisions of this chapter or chapters 66, 80, or 94, RSMo, or the provisions of any municipal charter, no city, including any constitutional charter city, which either failed to hold an election pursuant to section 92.110 or which held an election pursuant to section 92.110 and in which a majority of qualified voters fail to approve the continuance of the earnings tax, may impose or levy by ordinance or any other means an earnings tax.

**[92.110. TAX MAY BE LEVIED ON EARNINGS AND PROFITS (ST. LOUIS). —** Any constitutional charter city in this state which now has or may hereafter acquire a population in excess of seven hundred thousand inhabitants, according to the last federal decennial census, is hereby authorized to levy and collect, by ordinance, for general revenue purposes, an earnings tax on the salaries, wages, commissions and other compensation earned by its residents; on the salaries, wages, commissions and other compensation earned by nonresidents of the city for work done or services performed or rendered in the city; on the net profits of associations, business or other activities conducted by residents; on the net profits of associations, businesses or other activities conducted in the city by nonresidents; and on the net profits earned by all corporations

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as the result of work done or services performed or rendered and business or other activities conducted in the city.

**92.112. EARNINGS TAX NOT TO INCLUDE DEFERRED COMPENSATION AND CERTAIN OTHER SALARY REDUCTION PLANS, WHEN (KANSAS CITY, ST. JOSEPH AND ST. LOUIS CITY).**

— As referred to in sections 92.110 and 92.210, the terms salaries, wages, commissions and other compensation shall not include any contributions to any deferred compensation plans, such as but not limited to, any salary reduction plans, cafeteria plans or any other similar plans deferring the receipt of compensation by a resident or nonresident if such contribution is not subject to Missouri state income tax at the time such contribution is made.

**92.210. TAX MAY BE LEVIED ON EARNINGS AND PROFITS (KANSAS CITY AND ST. JOSEPH).**

— Any constitutional charter city in this state which now has or may hereafter acquire a population of more than four hundred fifty thousand but less than seven hundred thousand inhabitants, according to the last federal decennial census, and any city with a population of seventy thousand or more inhabitants which is located entirely within one county which does not have a charter form of government, but which does have another state as one of its boundaries, and which does not adjoin a first class county with a population of at least nine hundred thousand inhabitants is hereby authorized to levy and collect, by ordinance, for general revenue purposes, an earnings tax on the salaries, wages, commissions and other compensation earned by its residents; on the salaries, wages, commissions and other compensation earned by nonresidents of the city for work done or services performed or rendered in the city; on the net profits of associations, businesses or other activities conducted by residents; on the net profits of associations, businesses or other activities conducted in the city by nonresidents; and on the net profits earned by all corporations as the result of work done or services performed or rendered and business or other activities conducted in the city.

**92.220. INCOME EXEMPT FROM EARNINGS TAX (KANSAS CITY AND ST. JOSEPH). — 1.**  
The income received by any

- (1) Labor, agricultural or horticultural organizations;
- (2) Mutual savings bank not having a capital stock represented by shares;
- (3) Fraternal-beneficiary society, order or association, operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and providing for the payment of life, sick, accident or other benefits to the members of such society, order, or association or their dependents;
- (4) Domestic building and loan associations and credit unions without capital stock organized and operated for mutual purposes and without profit;
- (5) Cemetery company owned and operated exclusively for the benefit of its members, unless said cemetery is operated for profit;
- (6) Corporation or association organized and operated exclusively for religious, charitable, scientific or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual;
- (7) Business league, chamber of commerce or board of trade not organized for profit and no part of the net income of which inures to the benefit of any private stockholder or individual;
- (8) Civic league or organization not organized for profit but operated exclusively for the promotion of social welfare;
- (9) Club organized and operated exclusively for pleasure, recreation and other nonprofitable purposes, no part of the net income of which inures to the benefit of any private stockholder or member;
- (10) Farmers or other mutual hail, cyclone or fire insurance company, mutual ditch or irrigation company, mutual or cooperative telephone company, or like organization, the income



of which consists solely of assessments, dues and fees collected from members for the sole purpose of meeting its expenses;

(11) Farmers, fruit growers or like association, organized and operated as a sales agent for the purpose of marketing the products of its members and turning back to them the proceeds of sales, less the necessary selling expenses, on the basis of the quantity of produce furnished by them;

(12) Corporation or association organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by chapter 143, RSMo;

(13) Federal land banks and national farm loan associations, as provided in section 26 of an act of Congress approved July 17, 1916, entitled "An act to provide capital for agricultural development, to create standard forms of investment based upon farm mortgage, to equalize rates of interest upon farm loans, to furnish a market for United States bonds, to create government depositaries and financial agents for the United States, and for other purposes";

(14) Joint stock land banks as to income derived from bonds or debentures or other joint stock land banks or any federal land bank belonging to such joint stock land bank;

(15) Express companies which now pay an annual tax on their gross receipts in this state and insurance companies which pay an annual tax on their gross premium receipts in this state;

(16) Trust created by an employer and employees as part of a stock bonus, pension or profit-sharing plan, for the exclusive benefit of employees, to which contributions are made by such employer or employees, or both, for the purpose of distributing to such employees the earnings and principal of the fund accumulated by the trust in accordance with such plan, or a trust consisting solely of one or more restricted retirement funds created for one or more self-employed persons as part of a retirement plan for the exclusive benefit of such self-employed person or persons, to which contributions are made by such self-employed person or persons, for the purpose of distributing to such self-employed person or persons the earnings and principal of the fund accumulated by the trust in accordance with such plan and the amount actually distributed, or made available to any distributee;

shall not be taxable under any tax ordinance enacted pursuant to the provisions of sections 92.210 to 92.300.

2. The following income, regardless of who receives it, shall be exempt from such tax:

(1) The proceeds of life insurance policies paid to the individual beneficiaries upon the death of the insured;

(2) The amount received by the insured as a return of premium or premiums paid by him under life insurance or endowment contracts, either during the term or at the maturity of the term mentioned in the contract or upon the surrender of the contract;

(3) Any amount received under workers' compensation acts, as compensation for personal injuries or sickness, plus the amount of any damages received whether by suit or agreement on account of such injuries or sickness, or through the war risk insurance act or any law for the benefit or relief of injured or disabled members of the military or naval forces of the United States;

(4) The value of property acquired by gift, bequest, devise or descent, but the income from such property shall be included as income;

(5) Interest upon the obligations of this state or of any political subdivision thereof, or upon the obligations of the United States or its possessions;

(6) Any income derived from any public utility performing functions of national government or those incident to the state or any political subdivision thereof, or from the exercise of any essential government function accruing to any state, territory or the District of Columbia; provided, that whenever any state, territory or the District of Columbia, or any political subdivision of a state or territory has, prior to the passage of chapter 143, RSMo, entered in good faith into a contract with any person or corporation the object and purpose of which is to acquire,

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construct, operate or maintain a public utility, no tax shall be levied under the provisions of chapter 143, RSMo, upon the income derived from the operation of such public utility, so far as the payment thereof will impose a loss or burden upon such state, territory or the District of Columbia, or a political subdivision of this state; but this provision is not intended to confer upon such person or corporation any financial gain or exemption or to relieve such person or corporation from the payment of a tax as provided for in chapter 143, RSMo, upon the part or portion of said income to which such person or corporation shall be entitled under such contract.

**92.230. TAX RATE LIMITS (KANSAS CITY AND ST. JOSEPH).** — The tax on salaries, wages, commissions and other compensation of individuals, subject to tax, and on the net profits or earnings of associations, businesses or other activities, and corporations, subject to tax, shall not be in excess of one percent a year.

**92.240. NET PROFITS, HOW ASCERTAINED (KANSAS CITY AND ST. JOSEPH).** — The net profits or earnings of associations, businesses or other activities, and corporations shall be ascertained and determined by deducting the necessary expenses of operation from the gross profits or earnings.

**92.250. TAX ORDINANCE TO CONTAIN FORMULAE FOR DETERMINING PROFITS OF NONRESIDENTS AND CORPORATIONS (KANSAS CITY AND ST. JOSEPH).** — The earnings or net profits subject to tax of any nonresident individual, of any association or business conducted by nonresidents, or of any corporation, in any case in which the work done, services performed or rendered, and business or other activities conducted or done, performed, rendered or conducted both within and without the city may be ascertained by formulae set forth in any ordinance enacted pursuant to sections 92.210 to 92.300 or prescribed by rules or regulations.

**92.260. DEDUCTIONS, EXEMPTIONS AND CREDITS (KANSAS CITY AND ST. JOSEPH).** — The municipal assembly of the city may provide for deductions, exemptions and credits.

**92.270. WAGE BRACKETS MAY BE ESTABLISHED (KANSAS CITY AND ST. JOSEPH).** — In order to facilitate the collection of the tax herein authorized, the city may by ordinance create wage brackets within which the tax shall be uniform for taxpayers entitled to the same number of exemptions.

**92.280. EMPLOYERS MAY COLLECT TAX AND ALLOWANCE MAY BE AUTHORIZED (KANSAS CITY AND ST. JOSEPH).** — The city is hereby authorized to impose upon employers the duty of collecting and remitting to the city any tax that may be levied upon the earnings of employees pursuant to sections 92.210 to 92.300, and to prescribe penalties for failure to perform the duty. In the event that the city should impose the duty on employers, each employer shall be entitled to deduct and retain three percent of the total amount collected to compensate the employer for collecting the tax. The governing body of the city may, by ordinance, reduce, eliminate, or reimpose, if eliminated, the fee allowed to employers by this section.

**92.290. TAX ORDINANCE NOT TO REQUIRE COPIES OF FEDERAL OR STATE INCOME TAX RETURNS (KANSAS CITY AND ST. JOSEPH).** — No tax ordinance enacted pursuant to the provisions of sections 92.210 to 92.300 shall require any taxpayer to file copies of his state or federal income tax returns with any city officer, employee or other person designated by the ordinance to collect or otherwise administer any tax imposed thereunder.

**92.300. AMENDMENT OF CHARTER TO AUTHORIZE EARNINGS TAX REQUIRED, HOW (KANSAS CITY AND ST. JOSEPH).** — No ordinance enacted pursuant to the authority granted in sections 92.210 to 92.300 shall be effective unless the legislative body of the city shall have

submitted to the voters of the city the question of amending the charter, or revised charter, or amended charter of the city authorizing the legislative body of the city to impose a tax defined under sections 92.210 to 92.300. If a majority of the votes cast on the question by the voters voting thereon are in favor of the charter amendment, then the ordinance and any amendments thereto shall be in effect. If a majority of the votes cast by the voters voting thereon are opposed to the charter amendment, then the legislative body of the city shall have no power to impose the tax herein authorized unless and until the legislative body of the city shall again have submitted another proposal to amend the charter, or revised charter, or amended charter of the city, authorizing the legislative body of the city to impose the tax defined under sections 92.210 to 92.300, and the question has been approved by a majority of the voters voting thereon; except that, any tax rate previously adopted by a majority of the voters under the provisions of sections 92.210 to 92.300 and in effect at the time of the submission of a higher tax rate shall remain in effect if the higher rate is defeated by a majority of the voters voting thereon. If a proposed higher rate of taxation is defeated, no proposal to impose a higher rate of tax than the one remaining in effect after the defeat of the proposed higher rate shall again be submitted to the voters of the city within one year from the date of the election at which the proposed higher rate was defeated.]

Adopted November 2, 2010. (For — 1,297,197; Against — 599,672)  
Effective December 2, 2010.

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**ADOPTED NOVEMBER 2, 2010****PROPOSED BY INITIATIVE PETITION**

**PROPOSITION B.** — (Proposed by Initiative Petition) Shall Missouri law be amended to:

- require large-scale dog breeding operations to provide each dog under their care with sufficient food, clean water, housing and space; necessary veterinary care; regular exercise and adequate rest between breeding cycles;
- prohibit any breeder from having more than 50 breeding dogs for the purpose of selling their puppies as pets; and
- create a misdemeanor crime of “puppy mill cruelty” for any violations?

It is estimated state governmental entities will incur costs of \$654,768 (on-going costs of \$521,356 and one-time costs of \$133,412). Some local governmental entities may experience costs related to enforcement activities and savings related to reduced animal care activities.

**SECTION**

A. Enacting clause.

273.345. Puppy Mill Cruelty Act—citation of law—purpose—required care—limitation on number of dogs—definitions—crime of puppy mill cruelty, penalty—severability clause—effective date.

*Be it enacted by the people of the State of Missouri:*

**SECTION A. ENACTING CLAUSE.** — One new section is enacted, to be known as section 273.345, to read as follows:

**273.345. PUPPY MILL CRUELTY ACT—CITATION OF LAW—PURPOSE—REQUIRED CARE—LIMITATION ON NUMBER OF DOGS—DEFINITIONS—CRIME OF PUPPY MILL CRUELTY, PENALTY—SEVERABILITY CLAUSE—EFFECTIVE DATE.** — 1. This section shall be known and may be cited as the “Puppy Mill Cruelty Prevention Act.”

2. The purpose of this Act is to prohibit the cruel and inhumane treatment of dogs in puppy mills by requiring large-scale dog breeding operations to provide each dog under their care with basic food and water, adequate shelter from the elements, necessary veterinary care, adequate space to turn around and stretch his or her limbs, and regular exercise.

3. Notwithstanding any other provision of law, any person having custody or ownership of more than ten female covered dogs for the purpose of breeding those animals and selling any offspring for use as a pet shall provide each covered dog:

- (1) Sufficient food and clean water;
- (2) Necessary veterinary care;
- (3) Sufficient housing, including protection from the elements;
- (4) Sufficient space to turn and stretch freely, lie down, and fully extend his or her limbs;
- (5) Regular exercise; and
- (6) Adequate rest between breeding cycles.

4. Notwithstanding any other provision of law, no person may have custody of more than fifty covered dogs for the purpose of breeding those animals and selling any offspring for use as a pet.

5. For purposes of this section, and notwithstanding the provisions of section 273.325, the following terms have the following meanings:

(1) “Covered dog” means any individual of the species of the domestic dog, *Canis lupus familiaris*, or resultant hybrids, that is over the age of six months and has intact sexual organs.

(2) "Sufficient food and clean water" means access to appropriate nutritious food at least once a day sufficient to maintain good health; and continuous access to potable water that is not frozen, and is free of debris, feces, algae, and other contaminants.

(3) "Necessary veterinary care" means, at minimum, examination at least once yearly by a licensed veterinarian; prompt treatment of any illness or injury by a licensed veterinarian; and, where needed, humane euthanasia by a licensed veterinarian using lawful techniques deemed "Acceptable" by the American Veterinary Medical Association.

(4) "Sufficient housing, including protection from the elements" means constant and unfettered access to an indoor enclosure that has a solid floor; is not stacked or otherwise placed on top of or below another animal's enclosure; is cleaned of waste at least once a day while the dog is outside the enclosure; and does not fall below 45 degrees Fahrenheit, or rise above 85 degrees Fahrenheit.

(5) "Sufficient space to turn and stretch freely, lie down, and fully extend his or her limbs" means having (1) sufficient indoor space for each dog to turn in a complete circle without any impediment (including a tether); (2) enough indoor space for each dog to lie down and fully extend his or her limbs and stretch freely without touching the side of an enclosure or another dog; (3) at least one foot of headroom above the head of the tallest dog in the enclosure; and (4) at least 12 square feet of indoor floor space per each dog up to 25 inches long; at least 20 square feet of indoor floor space per each dog between 25 and 35 inches long; and at least 30 square feet of indoor floor space per each dog for dogs 35 inches and longer (with the length of the dog measured from the tip of the nose to the base of the tail).

(6) "Regular exercise" means constant and unfettered access to an outdoor exercise area that is composed of a solid, ground level surface with adequate drainage; provides some protection against sun, wind, rain, and snow; and provides each dog at least twice the square footage of the indoor floor space provided to that dog.

(7) "Adequate rest between breeding cycles" means, at minimum, ensuring that dogs are not bred to produce more than two litters in any 18 month period.

(8) "Person" means any individual, firm, partnership, joint venture, association, limited liability company, corporation, estate, trust, receiver, or syndicate.

(9) "Pet" means any domesticated animal normally maintained in or near the household of the owner thereof.

(10) "Retail pet store" means a person or retail establishment open to the public where dogs are bought, sold, exchanged, or offered for retail sale directly to the public to be kept as pets, but that does not engage in any breeding of dogs for the purpose of selling any offspring for use as a pet.

6. A person is guilty of the crime of puppy mill cruelty when he or she knowingly violates any provision of this section. The crime of puppy mill cruelty is a class C misdemeanor, unless the defendant has previously pled guilty to or been found guilty of a violation of this section, in which case each such violation is a class A misdemeanor. Each violation of this section shall constitute a separate offense. If any violation of this section meets the definition of animal abuse in section 578.012, the defendant may be charged and penalized under that section instead.

7. The provisions of this section are in addition to, and not in lieu of, any other state and federal laws protecting animal welfare. This section shall not be construed to limit any state law or regulation protecting the welfare of animals, nor shall anything in this section prevent a local governing body from adopting and enforcing its own animal welfare laws and regulations in addition to this section. This section shall not be construed to place any numerical limits on the number of dogs a person may own or control when such dogs are not used for breeding those animals and selling any offspring for use as a pet. This section shall not apply to a dog during examination, testing, operation, recuperation, or other individual treatment for veterinary purposes; during lawful scientific research; during transportation; during cleaning of a dog's enclosure; during supervised outdoor exercise; or during any emergency that places a dog's life in imminent danger. This section shall not apply to any retail pet store; animal shelter as defined

in section 273.325; hobby or show breeders who have custody of no more than ten female covered dogs for the purpose of breeding those dogs and selling any offspring for use as a pet; or dog trainer who does not breed and sell any dogs for use as a pet. Nothing in this section shall be construed to limit hunting or the ability to breed, raise, or sell hunting dogs.

8. If any provision of this section, or the application thereof to any person or circumstances, is held invalid or unconstitutional, that invalidity or unconstitutionality shall not affect other provisions or applications of this section that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this section are severable.

9. The provisions herewith shall become operative one year after passage of this Act.

Adopted November 2, 2010. (For — 997,870; Against — 936,190)  
Effective December 2, 2010.

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ADOPTED NOVEMBER 2, 2010

**SENATE JOINT RESOLUTION 5 [SCS SJR 5]**

**CONSTITUTIONAL AMENDMENT NO. 1.** — (Proposed by the 95th General Assembly, First Regular Session SJR 5) Shall the Missouri Constitution be amended to require the office of county assessor to be an elected position in all counties with a charter form of government, except counties with a population between 600,001-699,999?

It is estimated this proposal will have no costs or savings to state or local governmental entities.

**JOINT RESOLUTION** Submitting to the qualified voters of Missouri, an amendment repealing section 18(b) of article VI of the Constitution of Missouri, and adopting one new section in lieu thereof relating to assessors.

**SECTION**

- A. Enacting clause.
- 18(b). Provisions required in county charters — exception.

*Be it resolved by the Senate, the House of Representatives concurring therein:*

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2010, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article VI of the Constitution of the state of Missouri:

**SECTION A. ENACTING CLAUSE.** — Section 18(b), article VI, Constitution of Missouri, is repealed and one new section adopted in lieu thereof, to be known as section 18(b), to read as follows:

**SECTION 18(B). PROVISIONS REQUIRED IN COUNTY CHARTERS — EXCEPTION.** — The charter shall provide for its amendment, for the form of the county government, the number, kinds, manner of selection, terms of office and salaries of the county officers, and for the exercise of all powers and duties of counties and county officers prescribed by the constitution and laws of the state; **however, such charter shall, except for the charter of any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants, require the assessor of the county to be an elected officer.**

Adopted November 2, 2010. (For — 1,360,556; Against — 475,000)  
Effective December 2, 2010.



ADOPTED NOVEMBER 2, 2010

**HOUSE JOINT RESOLUTION 15 [HJR 15]**

**CONSTITUTIONAL AMENDMENT NO. 2.** — (Proposed by the 95th General Assembly, First Regular Session HJR 15) Shall the Missouri Constitution be amended to require that all real property used as a homestead by Missouri citizens who are former prisoners of war and have a total service-connected disability be exempt from property taxes?

The number of qualified former prisoners of war and the amount of each exemption are unknown, however, because the number who meet the qualifications is expected to be small, the cost to local governmental entities should be minimal. Revenue to the state blind pension fund may be reduced by \$1,200.

**JOINT RESOLUTION** Submitting to the qualified voters of Missouri an amendment repealing section 6 of article X of the Constitution of Missouri, and adopting one new section in lieu thereof relating to property tax exemption.

**SECTION**

- A. Enacting clause.
- 6. Property exempt from taxation.

*Be it resolved by the House of Representatives, the Senate concurring therein:*

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2010, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article X of the Constitution of the state of Missouri:

**SECTION A. ENACTING CLAUSE.** — Section 6, article X, Constitution of Missouri, is repealed and one new section adopted in lieu thereof, to be known as section 6, to read as follows:

**SECTION 6. PROPERTY EXEMPT FROM TAXATION.** — 1. All property, real and personal, of the state, counties and other political subdivisions, and nonprofit cemeteries, **and all real property used as a homestead as defined by law of any citizen of this state who is a former prisoner of war, as defined by law, and who has a total service-connected disability**, shall be exempt from taxation; all personal property held as industrial inventories, including raw materials, work in progress and finished work on hand, by manufacturers and refiners, and all personal property held as goods, wares, merchandise, stock in trade or inventory for resale by distributors, wholesalers, or retail merchants or establishments shall be exempt from taxation; and all property, real and personal, not held for private or corporate profit and used exclusively for religious worship, for schools and colleges, for purposes purely charitable, for agricultural and horticultural societies, or for veterans' organizations may be exempted from taxation by general law. In addition to the above, household goods, furniture, wearing apparel and articles of personal use and adornment owned and used by a person in his home or dwelling place may be exempt from taxation by general law but any such law may provide for approximate restitution to the respective political subdivisions of revenues lost by reason of the exemption. All laws exempting from taxation property other than the property enumerated in this article,

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shall be void. The provisions of this section exempting certain personal property of manufacturers, refiners, distributors, wholesalers, and retail merchants and establishments from taxation shall become effective, unless otherwise provided by law, in each county on January 1 of the year in which that county completes its first general reassessment as defined by law.

2. All revenues lost because of the exemption of certain personal property of manufacturers, refiners, distributors, wholesalers, and retail merchants and establishments shall be replaced to each taxing authority within a county from a countywide tax hereby imposed on all property in subclass 3 of class 1 in each county. For the year in which the exemption becomes effective, the county clerk shall calculate the total revenue lost by all taxing authorities in the county and extend upon all property in subclass 3 of class 1 within the county, a tax at the rate necessary to produce that amount. The rate of tax levied in each county according to this subsection shall not be increased above the rate first imposed and will stand levied at that rate unless later reduced according to the provisions of subsection 3. The county collector shall disburse the proceeds according to the revenue lost by each taxing authority because of the exemption of such property in that county. Restitution of the revenues lost by any taxing district contained in more than one county shall be from the several counties according to the revenue lost because of the exemption of property in each county. Each year after the first year the replacement tax is imposed, the amount distributed to each taxing authority in a county shall be increased or decreased by an amount equal to the amount resulting from the change in that district's total assessed value of property in subclass 3 of class 1 at the countywide replacement tax rate. In order to implement the provisions of this subsection, the limits set in section 11(b) of this article may be exceeded, without voter approval, if necessary to allow each county listed in section 11(b) to comply with this subsection.

3. Any increase in the tax rate imposed pursuant to subsection 2 of this section shall be decreased if such decrease is approved by a majority of the voters of the county voting on such decrease. A decrease in the increased tax rate imposed under subsection 2 of this section may be submitted to the voters of a county by the governing body thereof upon its own order, ordinance, or resolution and shall be submitted upon the petition of at least eight percent of the qualified voters who voted in the immediately preceding gubernatorial election.

4. As used in this section, the terms "revenues lost" and "lost revenues" shall mean that revenue which each taxing authority received from the imposition of a tangible personal property tax on all personal property held as industrial inventories, including raw materials, work in progress and finished work on hand, by manufacturers and refiners, and all personal property held as goods, wares, merchandise, stock in trade or inventory for resale by distributors, wholesalers, or retail merchants or establishments in the last full tax year immediately preceding the effective date of the exemption from taxation granted for such property under subsection 1 of this section, and which was no longer received after such exemption became effective.

**EXPLANATION** -- Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Adopted November 2, 2010. (For — 1,227,297; Against — 639,065)  
Effective December 2, 2010.

**PROPOSED BY INITIATIVE PETITION****ADOPTED NOVEMBER 2, 2010**

**CONSTITUTIONAL AMENDMENT NO. 3.** — (Proposed by Initiative Petition) Shall the Missouri Constitution be amended to prevent the state, counties, and other political subdivisions from imposing any new tax, including a sales tax, on the sale or transfer of homes or any other real estate?

It is estimated this proposal will have no costs or savings to state or local governmental entities.

**SECTION**

25. Sale or transfer of homes or other real estate, no new taxes permitted, when.

**THE PROPOSED AMENDMENT**

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

One new section is adopted to be known as Article X, Section 25 and to read as follows:

**25. SALE OR TRANSFER OF HOMES OR OTHER REAL ESTATE, NO NEW TAXES PERMITTED, WHEN.** — After the effective date of this section, the state, counties, and other political subdivisions are hereby prevented from imposing any new tax, including a sales tax, on the sale or transfer of homes or any other real estate.

**EXPLANATION:** New matter enacted and intended to be included in the law is shown underlined thus.

Adopted November 2, 2010. (For — 1,592,177; Against — 309,398)  
Effective December 2, 2010.

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**LAWS PASSED**  
**DURING THE**  
**NINETY-SIXTH**  
**GENERAL ASSEMBLY,**  
**FIRST REGULAR SESSION**

**HB 1 [HCS HB 1]**

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**APPROPRIATIONS: BOARD OF FUND COMMISSIONERS.**

AN ACT to appropriate money to the Board of Fund Commissioners for the cost of issuing and processing State Water Pollution Control Bonds, Stormwater Control Bonds, Third State Building Bonds, and Fourth State Building Bonds, as provided by law, to include payments from the Water Pollution Control Bond and Interest Fund, Stormwater Control Bond and Interest Fund, Third State Building Bond Interest and Sinking Fund, Fourth State Building Bond and Interest Fund, Water Pollution Control Fund, and Stormwater Control Fund, and to transfer money among certain funds for the period beginning July 1, 2011 and ending June 30, 2012; provided that no funds from these sections shall be expended for the purpose of costs associated with travel or staffing for the offices of the Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, or Attorney General.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28, of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2011 and ending June 30, 2012 as follows:

**SECTION 1.010.**— To the Board of Fund Commissioners

For annual fees, arbitrage rebate, refunding, defeasance, and related expenses

From General Revenue Fund. . . . .	\$20,002E
From Bond Proceeds Funds. . . . .	2E
Total. . . . .	\$20,004

**SECTION 1.015.**— There is transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Fourth State Building Bond and Interest Fund for currently outstanding general obligations

From General Revenue Fund. . . . .	\$25,986,482
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**SECTION 1.020.**— To the Board of Fund Commissioners

For payment of interest and sinking fund requirements on fourth state building bonds currently outstanding as provided by law

From Fourth State Building Bond and Interest Fund. . . . .	\$17,274,357
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**SECTION 1.025.**— There is transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Water Pollution Control Bond and Interest Fund for currently outstanding general obligations

From General Revenue Fund. . . . .	\$37,754,960E
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There is transferred out of the State Treasury, chargeable to the Water and Wastewater Loan Revolving Fund pursuant to Title 33, Chapter 26, Subchapter VI, Section 1383, U.S. Code, to the Water Pollution Control Bond and Interest Fund for currently outstanding general obligations

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From Water and Wastewater Loan Revolving Fund. . . . .	2,030,804E
Total. . . . .	\$39,785,764

**SECTION 1.030.**— To the Board of Fund Commissioners

For payment of interest and sinking fund requirements on water

pollution control bonds currently outstanding as provided by law

From Water Pollution Control Bond and Interest Fund. . . . .	\$49,315,339
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**SECTION 1.035.**— There is transferred out of the State Treasury, chargeable

to the General Revenue Fund, to the Stormwater Control Bond and

Interest Fund for currently outstanding general obligations

From General Revenue Fund. . . . .	\$5,956,100
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**SECTION 1.040.**— To the Board of Fund Commissioners

For payment of interest and sinking fund requirements on stormwater

control bonds currently outstanding as provided by law

From Stormwater Control Bond and Interest Fund. . . . .	\$3,932,450
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**SECTION 1.045.**— There is transferred out of the State Treasury, chargeable

to the General Revenue Fund, to the Third State Building Bond Interest

and Sinking Fund for currently outstanding general obligations

From General Revenue Fund. . . . .	\$5,618,100
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**SECTION 1.050.**— To the Board of Fund Commissioners

For payment of interest and sinking fund requirements on third state

building bonds currently outstanding as provided by law

From Third State Building Bond Interest and Sinking Fund. . . . .	\$5,560,632
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**Bill Totals**

General Revenue Fund. . . . .	\$75,335,644
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Other Funds. . . . .	2,030,806
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Total. . . . .	\$77,366,450
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Approved May 2, 2011

**HB 2 [CCS SCS HCS HB 2]****EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**APPROPRIATIONS: STATE BOARD OF EDUCATION AND DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION.**

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the State Board of Education and the Department of Elementary and Secondary Education, and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2011 and ending June 30, 2012; provided that no funds from these sections shall be expended for the purpose of costs associated with travel or staffing for the offices of

the Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, or Attorney General.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2011 and ending June 30, 2012 as follows:

**SECTION 2.005.**— To the Department of Elementary and Secondary Education  
For the Division of Financial and Administrative Services

Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment

From General Revenue Fund. . . . .	\$1,882,461
From Federal Funds. . . . .	<u>2,495,727</u>
Total (Not to exceed 72.80 F.T.E.). . . . .	\$4,378,188

**SECTION 2.010.**— To the Department of Elementary and Secondary Education  
For refunds

From Federal and Other Funds. . . . .	\$1E
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**SECTION 2.015.**— To the Department of Elementary and Secondary Education  
For distributions to the free public schools \$3,322,965,527 under the

School Foundation Program as provided in Chapter 163, RSMo,  
provided that all funds appropriated for the Early Childhood  
Development Program (Parents As Teachers), that they are not spent  
on assessments shall be spent to provide parent education services.

The distribution of funds within this section shall be as follows:

For the Foundation Formula. . . . .	\$3,004,388,410
For Transportation . . . . .	107,797,713
For Early Childhood Special Education. . . . .	144,660,376
For Vocational Education . . . . .	50,069,028
For Early Childhood Development. . . . .	16,050,000
From Outstanding Schools Trust Fund. . . . .	573,147,395
From State School Moneys Fund. . . . .	2,196,407,428
From Lottery Proceeds Fund . . . . .	119,379,552
From Classroom Trust Fund. . . . .	366,112,409
From Federal Budget Stabilization Fund . . . . .	64,918,743E
From Early Childhood Development Education & Care Fund . . . . .	3,000,000

For the Small Schools Program

From State School Moneys Fund. . . . .	15,000,000
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For the Virtual Schools Program

From Lottery Proceeds Fund . . . . .	390,000
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For State Board of Education operated school programs

Personal Service and/or Expense and Equipment, provided that not

more than twenty-five percent (25%) flexibility is allowed between  
 personal service and expense and equipment  
 From General Revenue Fund. . . . . 39,958,397  
 From Federal Funds . . . . . 4,186,676

Expense and Equipment  
 From Bingo Proceeds for Education Fund. . . . . 1,876,355  
 Total (Not to exceed 726.90 F.T.E.). . . . . \$3,384,376,955

**SECTION 2.017.**— To the Department of Elementary and Secondary Education  
 For math and science tutoring program in St. Louis City  
 From Lottery Proceeds Fund. . . . . \$300,000

**SECTION 2.018.**— To the Department of Elementary and Secondary Education  
 For the Missouri Scholars and Fine Arts Academies  
 From Lottery Proceeds Fund. . . . . \$200,000

**SECTION 2.020.**— To the Department of Elementary and Secondary Education  
 For School Board Member Training  
 From State School Moneys Fund. . . . . \$136,326

**SECTION 2.025.**— To the Department of Elementary and Secondary Education  
 For Early Grade Literacy Programs offered at Southeast Missouri State University  
 From Lottery Proceeds Fund. . . . . \$100,000  
 From Federal Funds. . . . . 1E  
 Total. . . . . \$100,001

**SECTION 2.030.**— To the Department of Elementary and Secondary Education  
 For the School Food Services Program to reimburse schools for school food  
 programs  
 From General Revenue Fund. . . . . \$3,412,151  
 From Federal Funds . . . . . 255,385,652E  
 Total. . . . . \$258,797,803

**SECTION 2.035.**— To the Department of Elementary and Secondary Education  
 For distributions to the public elementary and secondary schools in this state,  
 pursuant to Chapters 144, 163, and 164, RSMo, pertaining to the School  
 District Trust Fund  
 From School District Trust Fund. . . . . \$760,600,000E

**SECTION 2.040.**— To the Department of Elementary and Secondary Education  
 For costs associated with school district bonds  
 From School District Bonds Fund. . . . . \$392,000

**SECTION 2.045.**— To the Department of Elementary and Secondary Education  
 For the purpose of receiving and expending grants, donations, contracts, and  
 payments from private, federal, and other governmental agencies which  
 may become available between sessions of the General Assembly  
 provided that the General Assembly shall be notified of the source of  
 any new funds and the purpose for which they shall be expended, in



writing, prior to the use of said funds  
 From Federal and Other Funds. . . . . \$15,000,000E

**SECTION 2.050.**— To the Department of Elementary and Secondary Education  
 For the Division of Learning Services

Personal Service and/or Expense and Equipment, provided that not  
 more than twenty-five percent (25%) flexibility is allowed between  
 personal service and expense and equipment  
 From General Revenue Fund. . . . . \$3,487,753  
 From Federal Funds . . . . . 12,422,557  
 From Excellence in Education Fund. . . . . 2,646,073

For the Office of Adult Learning and Rehabilitative Services

Personal Service. . . . . 27,121,665  
 Expense and Equipment. . . . . 2,914,668  
 From Federal Funds. . . . . 30,036,333  
 Total (Not to exceed 896.56 F.T.E.). . . . . \$48,592,716

**SECTION 2.055.**— To the Department of Elementary and Secondary Education

For reimbursements to school districts for the Early Childhood Program,  
 Hard-to-Reach Incentives, and Parent Education in conjunction with  
 the Early Childhood Education and Screening Program

From General Revenue Fund. . . . . \$73,200  
 From Federal Funds . . . . . 824,000  
 From State School Moneys Fund. . . . . 125,000

For grants to higher education institutions or area vocational technical  
 schools for the Child Development Associate Certificate Program in  
 collaboration with the Coordinating Board for Higher Education

From Federal Funds . . . . . 400,000

For grants under the Early Childhood Development, Education and Care  
 Program, including up to \$25,000 in expense and equipment and  
 for program administration

From Early Childhood Development, Education and Care Fund. . . . . 11,757,600  
 Total. . . . . \$13,179,800

**SECTION 2.060.**— To the Department of Elementary and Secondary Education

For the School Age Child Care Program

From Federal Funds. . . . . \$18,908,383  
 From After-School Retreat Reading and Assessment Grant Program Fund. . . . . 10,000E  
 Total. . . . . \$18,918,383

**SECTION 2.065.**— To the Department of Elementary and Secondary Education

For the Head Start Collaboration Program

From Federal Funds. . . . . \$300,000E

**SECTION 2.070.**— To the Department of Elementary and Secondary Education

For the Performance Based Assessment Program

From General Revenue Fund. . . . . \$191,843  
 From Federal Funds . . . . . 10,184,722

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From Outstanding Schools Trust Fund. . . . .	128,125
From Lottery Proceeds Fund. . . . .	<u>4,331,325</u>
Total. . . . .	\$14,836,015

**SECTION 2.075.**— To the Department of Elementary and Secondary Education  
For distributions to providers of vocational education programs  
From Federal Funds. . . . . \$26,000,000

**SECTION 2.080.**— To the Department of Elementary and Secondary Education  
For the Missouri History Teachers Program  
From Federal Funds. . . . . \$1,200

**SECTION 2.085.**— To the Department of Elementary and Secondary Education  
For the Technology Grants Program and for planning and implementing  
computer network infrastructure for public elementary and secondary  
schools, including computer access to the Department of Elementary and  
Secondary Education and to improve the use of classroom technology  
From Federal Funds. . . . . \$5,000,000E

**SECTION 2.090.**— To the Department of Elementary and Secondary Education  
For improving basic programs operated by local education agencies under  
Title I of the No Child Left Behind Act  
From Federal Funds. . . . . \$200,000,000E

**SECTION 2.095.**— To the Department of Elementary and Secondary Education  
For innovative educational program strategies under Title V of the No Child  
Left Behind Act  
From Federal Funds. . . . . \$2,100,000E

**SECTION 2.100.**— To the Department of Elementary and Secondary Education  
For programs for the gifted from interest earnings accruing in the  
Stephen Morgan Ferman Memorial for Education of the Gifted  
From State School Moneys Fund. . . . . \$10,000E

**SECTION 2.105.**— To the Department of Elementary and Secondary Education  
For courses, exams, and other expenses that lead to high school students  
receiving college credit and Advanced Placement examination fees for  
low-income families and for science and mathematics exams  
From Federal Funds. . . . . \$315,875

**SECTION 2.110.**— To the Department of Elementary and Secondary Education  
For the Instructional Improvement Grants Program pursuant to Title II  
Improving Teacher Quality  
From Federal Funds. . . . . \$59,348,890E

**SECTION 2.115.**— To the Department of Elementary and Secondary Education  
For the Safe and Drug Free Schools Grants Program pursuant to Title IV  
of the No Child Left Behind Act  
From Federal Funds. . . . . \$500,000E

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**SECTION 2.120.**— To the Department of Elementary and Secondary Education  
For the Public Charter Schools Program  
From Federal and Other Funds. . . . . \$2,432,000

**SECTION 2.125.**— To the Department of Elementary and Secondary Education  
For grants to rural and low-income schools  
From Federal Funds. . . . . \$3,600,000E

**SECTION 2.130.**— To the Department of Elementary and Secondary Education  
For language acquisition pursuant to Title III of the No Child Left Behind Act  
From Federal Funds. . . . . \$5,200,000E

**SECTION 2.135.**— To the Department of Elementary and Secondary Education  
For the Refugee Children School Impact Grants Program  
From Federal Funds. . . . . \$800,000

**SECTION 2.140.**— To the Department of Elementary and Secondary Education  
For the Schools with Distinction Program  
From Federal Funds. . . . . \$13,000E

**SECTION 2.141.**— To the Department of Elementary and Secondary Education  
For character education initiatives  
From Lottery Proceeds Fund. . . . . \$10,000

**SECTION 2.145.**— To the Department of Elementary and Secondary Education  
For the Vocational Rehabilitation Program  
From General Revenue Fund. . . . . \$12,849,613  
From Federal Funds . . . . . 40,713,797  
From Payments by the Department of Mental Health . . . . . 1,000,000  
From Lottery Proceeds Fund. . . . . 1,400,000  
Total. . . . . \$55,963,410

**SECTION 2.150.**— To the Department of Elementary and Secondary Education  
For the Disability Determination Program  
From Federal Funds. . . . . \$21,000,000E

**SECTION 2.155.**— To the Department of Elementary and Secondary Education  
For Independent Living Centers  
From General Revenue Fund. . . . . \$2,506,486  
From Federal Funds . . . . . 1,292,546  
From Independent Living Center Fund. . . . . 390,556  
Total. . . . . \$4,189,588

**SECTION 2.160.**— To the Department of Elementary and Secondary Education  
For the Supported Employment Evidence Based Dartmouth Grant  
From Federal Funds. . . . . \$80,000

**SECTION 2.165.**— To the Department of Elementary and Secondary Education  
For job training programs pursuant to the Workforce Investment Act  
From Federal Funds. . . . . \$8,000,000E

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**SECTION 2.170.**— To the Department of Elementary and Secondary Education  
Funds are to be transferred out of the State Treasury, chargeable to  
the Department of Elementary and Secondary Education Federal  
Stimulus Fund, to the Department of Elementary and Secondary  
Education Federal Fund

From Federal Stimulus Fund. . . . . \$1E

**SECTION 2.175.**— To the Department of Elementary and Secondary Education  
For distributions to educational institutions for the Adult Basic Education  
Program

From General Revenue Fund. . . . .	\$4,500,746
From Federal Funds . . . . .	10,000,000
From Outstanding Schools Trust Fund. . . . .	824,480
Total. . . . .	<u>\$15,325,226</u>

**SECTION 2.180.**— To the Department of Elementary and Secondary Education  
For the Troops to Teachers Program

From Federal Funds. . . . . \$153,610E

**SECTION 2.185.**— To the Department of Elementary and Secondary Education  
For the Special Education Program

From Federal Funds. . . . . \$235,315,211E

**SECTION 2.190.**— To the Department of Elementary and Secondary Education  
For special education excess costs

From General Revenue Fund. . . . .	\$9,732,356
From Lottery Proceeds Fund. . . . .	19,590,000
Total. . . . .	<u>\$29,322,356</u>

**SECTION 2.195.**— To the Department of Elementary and Secondary Education  
For the First Steps Program

From General Revenue Fund. . . . .	\$16,740,309
From Federal Funds . . . . .	7,761,583E
From Early Childhood Development, Education and Care Fund. . . . .	578,644
From Part C Early Intervention Fund. . . . .	5,295,254E
Total. . . . .	<u>\$30,375,790</u>

**SECTION 2.200.**— To the Department of Elementary and Secondary Education  
For payments to school districts for children in residential placements through  
the Department of Mental Health or the Department of Social Services  
pursuant to Section 167.126, RSMo

From General Revenue Fund. . . . .	\$2,330,731
From Lottery Proceeds Fund. . . . .	7,768,606
Total. . . . .	<u>\$10,099,337</u>

**SECTION 2.205.**— To the Department of Elementary and Secondary Education  
For the Sheltered Workshops Program

From General Revenue Fund. . . . . \$24,783,815

**SECTION 2.210.**— To the Department of Elementary and Secondary Education

For payments to readers for blind or visually disabled students in elementary  
and secondary schools  
From State School Moneys Fund. . . . . \$25,000

**SECTION 2.215.**— To the Department of Elementary and Secondary Education  
For a task force on blind student academic and vocational performance  
From General Revenue Fund. . . . . \$236,506

**SECTION 2.220.**— To the Department of Elementary and Secondary Education  
For the Missouri School for the Deaf  
From School for the Deaf Trust Fund. . . . . \$25,000E

**SECTION 2.225.**— To the Department of Elementary and Secondary Education  
For the Missouri School for the Blind  
From School for the Blind Trust Fund. . . . . \$1,500,000E

**SECTION 2.230.**— To the Department of Elementary and Secondary Education  
For the Missouri Special Olympics Program  
From General Revenue Fund. . . . . \$100,000

**SECTION 2.235.**— To the Department of Elementary and Secondary Education  
For the Missouri Schools for the Severely Disabled  
From Handicapped Children's Trust Fund. . . . . \$30,000E

**SECTION 2.240.**— To the Department of Elementary and Secondary Education  
For the Missouri Commission for the Deaf and Hard of Hearing  
Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment  
From General Revenue Fund. . . . . \$212,072  
From Missouri Commission for the Deaf and Hard of Hearing Fund .. . . . 52,100

Expense and Equipment  
From Missouri Commission for the Deaf and Hard of Hearing Board of  
Certification of Interpreters Fund. . . . . 117,000  
Total (Not to exceed 5.00 F.T.E.). . . . . \$381,172

**SECTION 2.245.**— To the Department of Elementary and Secondary Education  
For the Missouri Assistive Technology Council  
Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment  
From Federal Funds. . . . . \$815,096E  
From Deaf Relay Service and Equipment Distribution Program Fund. . . . . 1,870,466  
From Assistive Technology Loan Revolving Fund. . . . . 524,430

Expense and Equipment  
From Assistive Technology Trust Fund. . . . . 850,000  
Total (Not to exceed 10.00 F.T.E.). . . . . \$4,059,992

**SECTION 2.250.**— To the Department of Elementary and Secondary Education  
For the Children's Services Commission  
From Children's Service Commission Fund. . . . . \$10,000

**SECTION 2.255.**— To the Department of Elementary and Secondary Education  
Funds are to be transferred out of the State Treasury, chargeable to  
the General Revenue Fund, to the State School Moneys Fund  
From General Revenue Fund. . . . . \$1,950,600,571

**SECTION 2.260.**— To the Department of Elementary and Secondary Education  
Funds are to be transferred out of the State Treasury, chargeable to  
the General Revenue Fund-County Foreign Tax Distribution, to the  
State School Moneys Fund  
From General Revenue Fund. . . . . \$101,900,000E

**SECTION 2.265.**— To the Department of Elementary and Secondary Education  
Funds are to be transferred out of the State Treasury, chargeable to  
the Fair Share Fund, to the State School Moneys Fund  
From Fair Share Fund. . . . . \$21,010,000E

**SECTION 2.270.**— To the Department of Elementary and Secondary Education  
Funds are to be transferred out of the State Treasury, chargeable to  
the General Revenue Fund, to the Outstanding Schools Trust Fund  
From General Revenue Fund. . . . . \$574,100,000E

**SECTION 2.275.**— To the Department of Elementary and Secondary Education  
Funds are to be transferred out of the State Treasury, chargeable to the  
Gaming Proceeds for Education Fund, to the Classroom Trust Fund  
From Gaming Proceeds for Education Fund. . . . . \$354,500,000E

**SECTION 2.280.**— To the Department of Elementary and Secondary Education  
Funds are to be transferred out of the State Treasury, chargeable to  
the Lottery Proceeds Fund, to the Classroom Trust Fund  
From Lottery Proceeds Fund. . . . . \$11,612,409

**SECTION 2.285.**— To the Department of Elementary and Secondary Education  
Funds are to be transferred out of the State Treasury, chargeable to the  
Gaming Proceeds for Education Fund, to the School District Bond Fund  
From Gaming Proceeds for Education Fund. . . . . \$392,000

**SECTION 2.290.**— To the Department of Elementary and Secondary Education  
Funds are to be transferred out of the State Treasury, chargeable to the  
School Building Revolving Fund, to the State School Moneys Fund  
From School Building Revolving Fund. . . . . \$1,000,000E

**Bill Totals**

General Revenue Fund. . . . .	\$2,749,599,010
Federal Budget Stabilization Fund. . . . .	64,918,743
Federal Funds. . . . .	981,586,860
Other Funds. . . . .	<u>1,470,310,553</u>

Total. . . . . \$5,266,415,166

Approved June 10, 2011

### HB 3 [CCS SCS HCS HB 3]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

#### **APPROPRIATIONS: DEPARTMENT OF HIGHER EDUCATION.**

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Higher Education, the several divisions, programs, and institutions of higher education included therein to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2011 and ending June 30, 2012; provided that no funds from these sections shall be expended for the purpose of costs associated with travel or staffing for the offices of the Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, or Attorney General.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2011 and ending June 30, 2012 as follows:

#### **SECTION 3.005.**— To the Department of Higher Education

For Higher Education Coordination, for regulation of proprietary schools as provided in Section 173.600, RSMo, and for grant and scholarship program administration

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. . . . . \$796,395

From Federal and Other Funds . . . . . 237,046E

For workshops and conferences sponsored by the Department of Higher Education, and for distribution of federal funds to higher education institutions, to be paid for on a cost-recovery basis

From Quality Improvement Revolving Fund. . . . . 200,000E

Total (Not to exceed 22.58 F.T.E.).. . . . \$1,233,441

#### **SECTION 3.010.**— To the Department of Higher Education

For indemnifying individuals as a result of improper actions on the part of proprietary schools as provided in Section 173.612, RSMo

From Proprietary School Bond Fund. . . . . \$100,000

**SECTION 3.015.**— To the Department of Higher Education  
 For annual membership in the Midwestern Higher Education Compact  
 From General Revenue Fund. . . . . \$95,000

**SECTION 3.020.**— To the Department of Higher Education  
 For the Eisenhower Science and Mathematics Program and the Improving  
     Teacher Quality State Grants Program  
     Personal Service. . . . . \$35,000  
     Expense and Equipment . . . . . 20,400  
     Federal Education Programs. . . . . 1,727,022  
 From Federal Funds (Not to exceed 1.00 F.T.E.). . . . . \$1,782,422

**SECTION 3.025.**— To the Department of Higher Education  
 For receiving and expending donations and federal funds, provided that the  
     General Assembly shall be notified of the source of any new funds and  
     the purpose for which they shall be expended, in writing, prior to the  
     expenditure of said funds  
 From Federal and Other Funds. . . . . \$2,000,000E

**SECTION 3.030.**— To the Department of Higher Education  
 For receiving and expending federal College Access Challenge Grants  
 From Federal Funds. . . . . \$2,249,306E

**SECTION 3.035.**— To the Department of Higher Education  
 Funds are to be transferred out of the State Treasury, chargeable to  
     the General Revenue Fund, to the Academic Scholarship Fund  
 From General Revenue Fund. . . . . \$14,269,250  
 From Guaranty Agency Operating Fund. . . . . 1,000,000  
 Total. . . . . \$15,269,250

**SECTION 3.040.**— To the Department of Higher Education  
 For Higher Education Academic Scholarship Program pursuant to  
     Chapter 173, RSMo  
 From Academic Scholarship Fund. . . . . \$15,269,250E

**SECTION 3.045.**— To the Department of Higher Education  
 Funds are to be transferred out of the State Treasury, chargeable to the  
     funds listed below, to the Access Missouri Financial Assistance Fund  
 From General Revenue Fund. . . . . \$16,860,640  
 From Federal Funds . . . . . 1,000,000E  
 From Lottery Proceeds Fund . . . . . 11,916,667  
 From Missouri Student Grant Program Gift Fund. . . . . 50,000E  
 Total. . . . . \$29,827,307

**SECTION 3.050.**— To the Department of Higher Education  
 For the Access Missouri Financial Assistance Program pursuant to  
     Chapter 173, RSMo  
 From Access Missouri Financial Assistance Fund. . . . . \$34,827,307  
 From Clark and Lewis Discovery Fund. . . . . 30,000,000  
 Total. . . . . \$64,827,307



**SECTION 3.055.**— To the Department of Higher Education

Funds are to be transferred out of the State Treasury, chargeable to

the funds listed below, to the A+ Schools Fund

From General Revenue Fund. . . . .	\$753,878
From Lottery Proceeds Fund . . . . .	21,659,448
From Guaranty Agency Operating Fund. . . . .	<u>7,000,000</u>
Total. . . . .	\$29,413,326

**SECTION 3.060.**— To the Department of Higher Education

For the A+ Schools Program

From A+ Schools Fund. . . . .	\$29,413,326E
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**SECTION 3.070.**— To the Department of Higher Education

For the Public Service Officer or Employee Survivor Grant Program

pursuant to Section 173.260, RSMo

From General Revenue Fund. . . . .	\$100,000
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**SECTION 3.075.**— To the Department of Higher Education

For the Vietnam Veterans Survivors Scholarship Program pursuant to

Section 173.236, RSMo

From General Revenue Fund. . . . .	\$50,000
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**SECTION 3.080.**— To the Department of Higher Education

Funds are to be transferred out of the State Treasury, chargeable to the

General Revenue Fund, to the Marguerite Ross Barnett Scholarship Fund

From General Revenue Fund. . . . .	\$363,375
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**SECTION 3.085.**— To the Department of Higher Education

For the Marguerite Ross Barnett Scholarship Program pursuant to

Section 173.262, RSMo

From Marguerite Ross Barnett Scholarship Fund. . . . .	\$363,375E
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**SECTION 3.090.**— To the Department of Higher Education

For the Kids' Chance Scholarship Program pursuant to Chapter 173, RSMo

From Kids' Chance Scholarship Fund. . . . .	\$27,750
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**SECTION 3.095.**— To the Department of Higher Education

For the Veteran's Survivors Grant Program pursuant to Section 173.234, RSMo

From General Revenue Fund. . . . .	\$281,250
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**SECTION 3.100.**— To the Department of Higher Education

For minority teaching student scholarships pursuant to Section 161.415, RSMo

From Lottery Proceeds Fund. . . . .	\$169,000
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**SECTION 3.105.**— To the Department of Higher Education

For the Minority and Underrepresented Environmental Literacy Program

pursuant to Section 640.240, RSMo

From General Revenue Fund. . . . .	\$32,964
From Recruitment and Retention Scholarship Fund. . . . .	<u>50,000</u>
Total. . . . .	\$82,964

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**SECTION 3.110.**— To the Department of Higher Education  
For the Advantage Missouri Program pursuant to Chapter 173, RSMo  
From Advantage Missouri Trust Fund. . . . . \$15,000E

**SECTION 3.115.**— To the Department of Higher Education  
For GEAR-UP Program scholarships  
From GEAR-UP Scholarship Fund. . . . . \$450,000E

**SECTION 3.120.**— To the Department of Higher Education  
For the Missouri Guaranteed Student Loan Program  
Personal Service and/or Expense and Equipment. . . . . \$10,558,012  
Default prevention activities . . . . . 890,000  
Payment of fees for collection of defaulted loans . . . . . 4,000,000E  
Payment of penalties to the federal government associated with  
late deposit of default collections. . . . . 500,000  
From Guaranty Agency Operating Fund (Not to exceed 52.09 F.T.E.). . . . . \$15,948,012

**SECTION 3.125.**— To the Department of Higher Education  
Funds are to be transferred out of the State Treasury, chargeable to  
the Federal Student Loan Reserve Fund, to the Guaranty Agency  
Operating Fund  
From Federal Student Loan Reserve Fund. . . . . \$8,000,000E

**SECTION 3.130.**— To the Department of Higher Education  
For purchase of defaulted loans, payment of default aversion fees,  
reimbursement to the federal government, and investment of funds  
in the Federal Student Loan Reserve Fund  
From Federal Student Loan Reserve Fund. . . . . \$145,000,000E

**SECTION 3.135.**— To the Department of Higher Education  
For payment of refunds set off against debt as required by  
Section 143.786, RSMo  
From Debt Offset Escrow Fund. . . . . \$250,000E

**SECTION 3.140.**— To the Department of Higher Education  
Funds are to be transferred out of the State Treasury, chargeable to the  
Guaranty Agency Operating Fund, to the Federal Student Loan  
Reserve Fund  
From Guaranty Agency Operating Fund. . . . . \$1,000,000E

**SECTION 3.145.**— To the Department of Higher Education  
For distribution to community colleges as provided in Section 163.191, RSMo  
From General Revenue Fund. . . . . \$120,707,908  
From Lottery Proceeds Fund . . . . . 7,452,485

For maintenance and repair at community colleges, local matching funds  
must be provided on a 50/50 state/local match rate in order to be  
eligible for state funds  
From General Revenue Fund. . . . . 4,506,813

For the payment of refunds set off against debt as required by

Section 143.786, RSMo

From Debt Offset Escrow Fund. . . . . 250,000E

Total. . . . . \$132,917,206

**SECTION 3.150.**— To Linn State Technical College

All Expenditures

From General Revenue Fund. . . . . \$4,261,638

From Lottery Proceeds Fund . . . . . 420,528

For the payment of refunds set off against debt as required by

Section 143.786, RSMo

From Debt Offset Escrow Fund. . . . . 30,000E

Total. . . . . \$4,712,166

**SECTION 3.154.**— To the Department of Higher Education

For competitive grants to eligible institutions of higher education based on a process and criteria jointly determined by the state board of nursing and the department of higher education. Grant award amounts shall not exceed one hundred fifty thousand dollars (\$150,000) and no campus shall receive more than one grant per year

From Board of Nursing Fund. . . . . \$1,000,000

**SECTION 3.155.**— To the University of Central Missouri

All Expenditures

From General Revenue Fund. . . . . \$48,370,116

From Lottery Proceeds Fund . . . . . 4,985,715

For the payment of refunds set off against debt as required by

Section 143.786, RSMo

From Debt Offset Escrow Fund. . . . . 75,000E

Total. . . . . \$53,430,831

**SECTION 3.160.**— To Southeast Missouri State University

All Expenditures

From General Revenue Fund. . . . . \$39,433,325

From Lottery Proceeds Fund . . . . . 4,059,895

For the payment of refunds set off against debt as required by

Section 143.786, RSMo

From Debt Offset Escrow Fund. . . . . 75,000E

Total. . . . . \$43,568,220

**SECTION 3.165.**— To Missouri State University

All Expenditures

From General Revenue Fund. . . . . \$72,790,716

From Lottery Proceeds Fund . . . . . 7,675,409

For the payment of refunds set off against debt as required by

Section 143.786, RSMo

From Debt Offset Escrow Fund. . . . . 75,000E

Total. . . . . \$80,541,125

**SECTION 3.170.**— To Lincoln University

All Expenditures

From General Revenue Fund. . . . . \$16,134,341

From Lottery Proceeds Fund . . . . . 1,551,205

For the payment of refunds set off against debt as required by

Section 143.786, RSMo

From Debt Offset Escrow Fund. . . . . 75,000E

Total. . . . . \$17,760,546

**SECTION 3.175.**— To Truman State University

All Expenditures

From General Revenue Fund. . . . . \$36,601,703

From Lottery Proceeds Fund . . . . . 3,776,109

For the payment of refunds set off against debt as required by

Section 143.786, RSMo

From Debt Offset Escrow Fund. . . . . 75,000E

Total. . . . . \$40,452,812

**SECTION 3.180.**— To Northwest Missouri State University

All Expenditures

From General Revenue Fund. . . . . \$26,993,142

From Lottery Proceeds Fund . . . . . 2,599,805

For the payment of refunds set off against debt as required by

Section 143.786, RSMo

From Debt Offset Escrow Fund. . . . . 75,000E

Total. . . . . \$29,667,947

**SECTION 3.185.**— To Missouri Southern State University

All Expenditures

From General Revenue Fund. . . . . \$20,912,980

From Lottery Proceeds Fund . . . . . 1,972,820

For the payment of refunds set off against debt as required by

Section 143.786, RSMo

From Debt Offset Escrow Fund. . . . . 75,000E

Total. . . . . \$22,960,800

**SECTION 3.190.**— To Missouri Western State University

All Expenditures

From General Revenue Fund. . . . . \$19,121,733

From Lottery Proceeds Fund . . . . . 1,968,039

For the payment of refunds set off against debt as required by

Section 143.786, RSMo

From Debt Offset Escrow Fund. . . . . 75,000E

Total. . . . . \$21,164,772

**SECTION 3.195.**— To Harris-Stowe State University

All Expenditures  
 From General Revenue Fund. . . . . \$8,815,741  
 From Lottery Proceeds Fund . . . . . 908,704

For the payment of refunds set off against debt as required by

Section 143.786, RSMo  
 From Debt Offset Escrow Fund.. . . . 75,000E  
 Total. . . . . \$9,799,445

**SECTION 3.200.**— To the University of Missouri

For operation of its various campuses and programs

All Expenditures  
 From General Revenue Fund. . . . . \$366,765,401  
 From Lottery Proceeds Fund . . . . . 36,869,596

For the payment of refunds set off against debt as required by

Section 143.786, RSMo  
 From Debt Offset Escrow Fund.. . . . 200,000E  
 Total. . . . . \$403,834,997

**SECTION 3.203.**— To the University of Missouri

For the purpose of funding the Pharmacy Doctorate Program at Missouri State

University in collaboration with the University of Missouri-Kansas City

School of Pharmacy

All Expenditures  
 From General Revenue Fund. . . . . \$2,000,000

**SECTION 3.205.**— To the University of Missouri

For the Missouri Telehealth Network

All Expenditures  
 From Healthy Families Trust Fund.. . . . \$437,640

**SECTION 3.207.**— To the University of Missouri

For the Missouri Research and Education Network (MOREnet)

All Expenditures  
 From General Revenue Fund. . . . . \$50,000

**SECTION 3.210.**— To the University of Missouri

For the Missouri Rehabilitation Center

All Expenditures  
 From General Revenue Fund. . . . . \$10,337,870

**SECTION 3.215.**— To the University of Missouri

For a program of research into spinal cord injuries

All Expenditures  
 From Spinal Cord Injury Fund.. . . . \$625,000E

**SECTION 3.220.**— To the University of Missouri

For the treatment of renal disease in a statewide program

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All Expenditures  
From General Revenue Fund. . . . . \$1,500,000

**SECTION 3.225.**— To the University of Missouri  
For the State Historical Society

All Expenditures  
From General Revenue Fund. . . . . \$1,227,605

**SECTION 3.230.**— To the Board of Curators of the University of Missouri  
For investment in registered federal, state, county, municipal, or school district  
bonds as provided by law

From State Seminary Fund. . . . . \$4,000,000

**SECTION 3.235.**— To the Board of Curators of the University of Missouri  
For use by the University of Missouri pursuant to Sections 172.610  
through 172.720, RSMo

From State Seminary Moneys Fund. . . . . \$275,000

**Bill Totals**

General Revenue Fund. . . . .	\$834,133,784
Federal Funds. . . . .	7,268,774
Other Funds. . . . .	<u>313,921,077</u>
Total. . . . .	\$1,155,323,635

Approved June 10, 2011

**HB 4 [CCS SCS HCS HB 4]**

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**APPROPRIATIONS: DEPARTMENT OF REVENUE, DEPARTMENT OF TRANSPORTATION.**

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Revenue, Department of Transportation and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2011 and ending June 30, 2012; provided that no funds from these sections shall be expended for the purpose of costs associated with travel or staffing for the offices of the Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, or Attorney General.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2011 and ending June 30, 2012, as follows:

**SECTION 4.005.**— To the Department of Revenue

For the purpose of collecting highway related fees and taxes

Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment

From General Revenue Fund. . . . .	\$10,284,719
From State Highways and Transportation Department Fund. . . . .	<u>11,820,335</u>
Total (Not to exceed 454.39 F.T.E.) . . . . .	\$22,105,054

**SECTION 4.010.**— To the Department of Revenue

For the Division of Taxation

Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment

From General Revenue Fund. . . . .	\$26,144,359
From Petroleum Storage Tank Insurance Fund . . . . .	27,654
From Petroleum Inspection Fund . . . . .	35,497
From Health Initiatives Fund . . . . .	53,714
From Conservation Commission Fund. . . . .	555,816
From Elderly Home-Delivered Meals Trust Fund . . . . .	12,582

For the integrated tax system

Expense and Equipment

From General Revenue Fund. . . . .	<u>1,000,000</u>
Total (Not to exceed 635.60 F.T.E.) . . . . .	\$27,829,622

**SECTION 4.015.**— To the Department of Revenue

For the Division of Motor Vehicle and Driver Licensing

Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment

From General Revenue Fund. . . . .	\$1,280,080
From Federal Funds . . . . .	578,957E
From Department of Revenue Information Fund. . . . .	489,829
From Motor Vehicle Commission Fund . . . . .	618,978
From Department of Revenue Specialty Plate Fund. . . . .	<u>5,206E</u>
Total (Not to exceed 48.05 F.T.E.) . . . . .	\$2,973,050

**SECTION 4.020.**— To the Department of Revenue

For the Division of Legal Services

Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment

From General Revenue Fund. . . . .	\$1,549,845
From Federal Funds . . . . .	265,824E
From Motor Vehicle Commission Fund. . . . .	<u>492,058</u>
Total (Not to exceed 52.15 F.T.E.) . . . . .	\$2,307,727

**SECTION 4.025.**— To the Department of Revenue

For the Division of Administration

Personal Service and/or Expense and Equipment, provided that not

more than twenty-five percent (25%) flexibility is allowed between  
 personal service and expense and equipment

From General Revenue Fund. . . . .	\$1,391,812
From Federal Funds . . . . .	6,020,764E
From Department of Revenue Information Fund. . . . .	119,433
From Child Support Enforcement Fund. . . . .	2,624,213

For postage

Expense and Equipment

From General Revenue Fund. . . . .	3,111,462
From Health Initiatives Fund . . . . .	5,373
From Motor Vehicle Commission Fund . . . . .	44,029
From Conservation Commission Fund. . . . .	1,343
From Department of Revenue Information Fund. . . . .	199,611
Total (Not to exceed 39.66 F.T.E.). . . . .	\$13,518,040

**SECTION 4.030.**— To the Department of Revenue

For the State Tax Commission

Personal Service and/or Expense and Equipment, provided that not  
 more than twenty-five percent (25%) flexibility is allowed between  
 personal service and expense and equipment

From General Revenue Fund. . . . .	\$2,738,233
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Expense and Equipment

For the Productive Capability of Agricultural and Horticultural Land Use Study

From General Revenue Fund. . . . .	3,876
Total (Not to exceed 54.00 F.T.E.). . . . .	\$2,742,109

**SECTION 4.035.**— To the Department of Revenue

For the state's share of the costs and expenses incurred pursuant to an  
 approved assessment and equalization maintenance plan as  
 provided by Chapter 137, RSMo

From General Revenue Fund. . . . .	\$11,132,480
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**SECTION 4.040.**— To the Department of Revenue

For payment of fees to counties as a result of delinquent collections made  
 by circuit attorneys or prosecuting attorneys and payment of collection  
 agency fees

From General Revenue Fund. . . . .	\$2,009,425E
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**SECTION 4.045.**— To the Department of Revenue

For payment of fees to counties for the filing of lien notices and lien releases

From General Revenue Fund. . . . .	\$465,000
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**SECTION 4.050.**— To the Department of Revenue

For distribution to cities and counties of all funds accruing to the  
 Motor Fuel Tax Fund under the provisions of Sections 30(a) and  
 30(b), Article IV, Constitution of Missouri

From Motor Fuel Tax Fund. . . . .	\$188,000,000E
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**SECTION 4.055.**— To the Department of Revenue



For distribution to Veterans of Foreign Wars Department of Missouri  
of all emblem use fee contributions collected for the SOME  
GAVE ALL specialty plate  
From General Revenue Fund. . . . . \$1,000E

**SECTION 4.060.**— To the Department of Revenue  
For refunds for overpayment or erroneous payment of any tax or any  
payment that is credited to the General Revenue Fund  
From General Revenue Fund. . . . . \$1,538,400,000E

**SECTION 4.065.**— To the Department of Revenue  
For refunds for overpayment or erroneous payment of any tax or any  
payment credited to Federal and Other Funds  
From Federal and Other Funds. . . . . \$34,850E

**SECTION 4.070.**— To the Department of Revenue  
For the purpose of refunding any tax or fee credited to the State  
Highways and Transportation Department Fund  
From State Highways and Transportation Department Fund. . . . . \$2,290,564E

**SECTION 4.075.**— To the Department of Revenue  
For the purpose of refunding any overpayment or erroneous payment of  
any amount credited to the Aviation Trust Fund  
From Aviation Trust Fund. . . . . \$50,000E

**SECTION 4.080.**— To the Department of Revenue  
For refunds and distributions of motor fuel taxes  
From State Highways and Transportation Department Fund. . . . . \$10,414,000E

**SECTION 4.085.**— To the Department of Revenue  
For refunds for overpayment or erroneous payment of any tax or any  
payment credited to the Workers' Compensation Fund  
From Workers' Compensation Fund. . . . . \$450,000E

**SECTION 4.090.**— To the Department of Revenue  
For refunds for overpayment or erroneous payment of any tax or any  
payment for tobacco taxes  
From Health Initiatives Fund. . . . . \$25,000E  
From State School Moneys Fund. . . . . 25,000E  
From Fair Share Fund . . . . . 11,000E  
Total. . . . . \$61,000

**SECTION 4.095.**— To the Department of Revenue  
For apportionments to the several counties and the City of St. Louis  
to offset credits taken against the County Stock Insurance Tax  
From General Revenue Fund. . . . . \$500,000E

**SECTION 4.100.**— To the Department of Revenue  
For the payment of local sales tax delinquencies set off by tax credits  
From General Revenue Fund. . . . . \$200,000E

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**SECTION 4.105.**— There is transferred out of the State Treasury, chargeable to the General Revenue Fund, such amounts as may be necessary to make payments of refunds set off against debts as required by Section 143.786, RSMo, to the Debt Offset Escrow Fund  
From General Revenue Fund. . . . . \$11,292,384E

**SECTION 4.110.**— There is transferred out of the State Treasury, chargeable to the General Revenue Fund, such amounts as may be necessary to make payments of refunds set off against debts as required by Section 488.020(3), RSMo, to the Circuit Courts Escrow Fund  
From General Revenue Fund. . . . . \$505,500E

**SECTION 4.115.**— For the payment of refunds set off against debts as required by Section 143.786, RSMo  
From Debt Offset Escrow Fund. . . . . \$1,164,119E

**SECTION 4.120.**— There is transferred out of the State Treasury, chargeable to the School District Trust Fund, to the General Revenue Fund  
From School District Trust Fund. . . . . \$2,500,000

**SECTION 4.125.**— There is transferred out of the State Treasury, chargeable to the Parks Sales Tax Fund, sixty-six hundredths percent of the funds received, to the General Revenue Fund  
From Parks Sales Tax Fund. . . . . \$240,000E

**SECTION 4.130.**— There is transferred out of the State Treasury, chargeable to the Soil and Water Sales Tax Fund, sixty-six hundredths percent of the funds received, to the General Revenue Fund  
From Soil and Water Sales Tax Fund. . . . . \$240,000E

**SECTION 4.135.**— There is transferred out of the State Treasury, chargeable to the General Revenue Fund, such amounts generated by development projects, as required by Section 99.963, RSMo, to the State Supplemental Downtown Development Fund  
From General Revenue Fund. . . . . \$1,240,450

**SECTION 4.140.**— There is transferred out of the state treasury, chargeable to the General Revenue Fund, such amounts generated by redevelopment projects, as required by Section 99.1092, RSMo, to the Downtown Revitalization Preservation Fund  
From General Revenue Fund. . . . . \$234,697

**SECTION 4.145.**— There is transferred out of the State Treasury, chargeable to the General Revenue Fund, amounts from income tax refunds designated by taxpayers for deposit in various income tax check-off funds  
From General Revenue Fund. . . . . \$396,000E

**SECTION 4.150.**— There is transferred out of the State Treasury, chargeable to various income tax check-off funds, amounts from income tax refunds erroneously deposited to said funds, to the General Revenue Fund

From Other Funds. . . . . \$13,669E

**SECTION 4.155.**— For distribution from the various income tax check-off charitable trust funds

From Other Funds. . . . . \$31,500E

**SECTION 4.160.**— There is transferred out of the State Treasury, chargeable to the Department of Revenue Information Fund, to the State Highways and Transportation Department Fund

From Department of Revenue Information Fund. . . . . \$250,000E

**SECTION 4.165.**— There is transferred out of the State Treasury, chargeable to the Motor Fuel Tax Fund, to the State Highways and Transportation Department Fund

From Motor Fuel Tax Fund. . . . . \$560,178,001E

**SECTION 4.170.**— There is transferred out of the State Treasury, chargeable to the Department of Revenue Specialty Plate Fund, to the State Highways and Transportation Department Fund

From Department of Revenue Specialty Plate Fund. . . . . \$10,000E

**SECTION 4.175.**— To the Department of Revenue  
For the State Lottery Commission

For any and all expenditures, including operating, maintenance and repair, and minor renovations, necessary for the purpose of operating a state lottery, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

Personal Service. . . . . \$6,865,837

Expense and Equipment . . . . . 37,253,502E

From Lottery Enterprise Fund (Not to exceed 159.50 F.T.E.). . . . . \$44,119,339

**SECTION 4.180.**— To the Department of Revenue  
For the State Lottery Commission

For the payment of prizes

From Lottery Enterprise Fund. . . . . \$102,000,000E

**SECTION 4.185.**— There is transferred out of the State Treasury, chargeable to the Lottery Enterprise Fund, to the Lottery Proceeds Fund

From Lottery Enterprise Fund. . . . . \$267,172,000E

**SECTION 4.400.**— To the Department of Transportation

For the Highways and Transportation Commission and Highway Program

Administration

Personal Service. . . . . \$21,373,758E

Expense and Equipment. . . . . 4,672,175E

From State Road Fund (Not to exceed 439.57 F.T.E.). . . . . \$26,045,933

**SECTION 4.405.**— To the Department of Transportation

For department-wide fringe expenses

For Administration fringe benefits

Personal Service. . . . .	\$13,317,348E
Expense and Equipment. . . . .	<u>14,811,770E</u>
From State Road Fund . . . . .	28,129,118
For Construction Program fringe benefits	
Personal Service. . . . .	52,242,287E
Expense and Equipment. . . . .	<u>1,976,879E</u>
From State Road Fund . . . . .	54,219,166
For Maintenance Program fringe benefits	
Personal Service. . . . .	187,664E
Expense and Equipment. . . . .	<u>3,010E</u>
From Federal Funds . . . . .	190,674
Personal Service. . . . .	101,156,048E
Expense and Equipment. . . . .	<u>3,650,001E</u>
From State Road Fund . . . . .	104,806,049
For Fleet, Facilities, and Information Systems fringe benefits	
Personal Service. . . . .	10,216,484E
Expense and Equipment. . . . .	<u>270,297E</u>
From State Road Fund . . . . .	10,486,781
For Multimodal Operations fringe benefits	
Personal Service	
From Federal Funds . . . . .	223,978E
From State Road Fund . . . . .	278,958E
From Railroad Expense Fund . . . . .	245,334E
From State Transportation Fund . . . . .	72,141E
From Aviation Trust Fund. . . . .	<u>297,155E</u>
Total. . . . .	\$198,949,354

**SECTION 4.410.**— To the Department of Transportation

For the Construction Program

To pay the costs of reimbursing counties and other political subdivisions

for the acquisition of roads and bridges taken over by the state as permanent parts of the state highway system, and for the costs of locating, relocating, establishing, acquiring, constructing, reconstructing, widening, and improving those highways, bridges, tunnels, parkways, travelways, tourways, and coordinated facilities authorized under Article IV, Section 30(b) of the Constitution of Missouri; of acquiring materials, equipment, and buildings necessary for such purposes and for other purposes and contingencies relating to the location and construction of highways and bridges; and to expend funds from the United States Government for like purposes

Personal Service. . . . .	\$75,689,368E
Expense and Equipment . . . . .	14,664,164E
Construction. . . . .	<u>1,028,621,221E</u>
From State Road Fund . . . . .	1,118,974,753

For all expenditures associated with paying outstanding state road bond debt

From State Road and State Road Bond Funds. . . . . 290,389,905E  
 Total (Not to exceed 1,606.26 F.T.E.). . . . . \$1,409,364,658

**SECTION 4.415.**— To the Department of Transportation

For the Maintenance Program

To pay the costs of preserving and maintaining the state system of roads  
 and bridges and coordinated facilities authorized under Article IV,  
 Section 30(b) of the Constitution of Missouri; of acquiring materials,  
 equipment, and buildings necessary for such purposes and for other  
 purposes and contingencies related to the preservation, maintenance,  
 and safety of highways and bridges  
 Personal Service. . . . . \$299,948E  
 Expense and Equipment. . . . . 55,000E  
 From Federal Funds . . . . . 354,948

Personal Service. . . . . 150,547,835E  
 Expense and Equipment . . . . . 238,426,228E  
 From State Road Fund . . . . . 388,974,063

Expense and Equipment  
 From Motorcycle Safety Trust Fund. . . . . 425,000E

For all allotments, grants, and contributions from federal sources that may  
 be deposited in the State Treasury for grants of National Highway  
 Safety Act moneys  
 From Federal Funds . . . . . 30,000,000E

For the Motor Carrier Safety Assistance Program

From Federal Funds. . . . . 2,000,000E  
 Total (Not to exceed 3,958.93 F.T.E.). . . . . \$421,754,011

**SECTION 4.420.**— To the Department of Transportation

For Fleet, Facilities, and Information Systems

To pay the costs of constructing, preserving, and maintaining the state  
 system of roads and bridges and coordinated facilities authorized  
 under Article IV, Section 30(b) of the Constitution of Missouri;  
 of acquiring materials, equipment, and buildings necessary for such  
 purposes and for other purposes and contingencies related to the  
 construction, preservation, and maintenance of highways and bridges  
 Personal Service. . . . . \$15,915,255E  
 Expense and Equipment . . . . . 78,283,396E  
 From State Road Fund (Not to exceed 375.25 F.T.E.). . . . . \$94,198,651

**SECTION 4.421.**— To the Department of Transportation

For the costs associated with relocating a maintenance facility currently  
 located on Eighty-seventh Street in Kansas City, Missouri

From Federal Road Fund. . . . . \$2,000,000

**SECTION 4.425.**— To the Department of Transportation

For the purpose of refunding any tax or fee credited to the State Highways  
 and Transportation Department Fund. . . . . \$200,000E

For refunds and distributions of motor fuel taxes. . . . .	<u>30,000,000E</u>
From State Highways and Transportation Department Fund. . . . .	\$30,200,000

**SECTION 4.430.**— Funds are to be transferred out of the State Treasury,  
chargeable to the State Highways and Transportation Department  
Fund, to the State Road Fund

From State Highways and Transportation Department Fund. . . . .	\$525,000,000E
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**SECTION 4.431.**— Funds are to be transferred out of the State Treasury,  
chargeable to the State Road Fund, to the Federal Road Fund. This  
appropriation shall be funded from the portion of the State Road Fund  
comprised of federal reimbursement. This appropriation shall not be  
construed to draw on state revenue derived from highway users as an  
incident to their use or right to use the highways of the state

From State Road Fund. . . . .	\$2,000,000
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**SECTION 4.435.**— To the Department of Transportation

For Multimodal Operations Administration

Personal Service. . . . .	\$486,452E
Expense and Equipment. . . . .	<u>400,000E</u>
From Federal Funds . . . . .	886,452

Personal Service. . . . .	429,959E
Expense and Equipment. . . . .	<u>25,897E</u>
From State Road Fund . . . . .	455,856

Personal Service. . . . .	433,616
Expense and Equipment. . . . .	<u>151,421</u>
From Railroad Expense Fund . . . . .	585,037

Personal Service . . . . .	155,184
Expense and Equipment. . . . .	<u>10,395</u>
From State Transportation Fund . . . . .	165,579

Personal Service. . . . .	478,560
Expense and Equipment. . . . .	<u>24,827</u>
From Aviation Trust Fund. . . . .	503,387
Total (Not to exceed 36.67 F.T.E.). . . . .	\$2,596,311

**SECTION 4.440.**— To the Department of Transportation

For Multimodal Operations

For reimbursements to the State Road Fund for providing professional and  
technical services and administrative support of the multimodal program

From Federal Funds. . . . .	\$83,500
From Railroad Expense Fund . . . . .	102,532
From State Transportation Fund . . . . .	50,951
From Aviation Trust Fund. . . . .	<u>75,567</u>
Total. . . . .	\$312,550

**SECTION 4.445.**— To the Department of Transportation

For Multimodal Operations

For loans from the State Transportation Assistance Revolving Fund to political subdivisions of the state or to public or private not-for-profit organizations or entities in accordance with Section 226.191, RSMo  
 From State Transportation Assistance Revolving Fund. . . . . \$550,000E

**SECTION 4.455.**— To the Department of Transportation

For the Transit Program

For distributing funds to urban, small urban, and rural transportation systems

From State Transportation Fund. . . . . \$560,875

**SECTION 4.460.**— To the Department of Transportation

For the Transit Program

For locally matched capital improvement grants under Section 5310, Title 49, United States Code to assist private, non-profit organizations in improving public transportation for the state's elderly and people with disabilities

From Federal Funds. . . . . \$2,600,000E

For the New Freedom Transit Program

For locally matched grants under Section 5317, Title 49, United States Code to assist disabled persons with transportation services beyond those required by the Americans with Disabilities Act

From Federal Funds. . . . . 600,000E

Total. . . . . \$3,200,000

**SECTION 4.465.**— To the Department of Transportation

For the Transit Program

For an operating subsidy for not-for-profit transporters of the elderly, people with disabilities, and low-income individuals

From General Revenue Fund. . . . . \$1,194,129

From State Transportation Fund. . . . . 1,274,478

Total. . . . . \$2,468,607

**SECTION 4.470.**— To the Department of Transportation

For the Transit Program

For locally matched grants to small urban and rural areas under Section 5311, Title 49, United States Code

From Federal and Local Funds. . . . . \$12,040,000E

For the Job Access and Reverse Commute Grants Program

For locally matched grants to small urban and rural areas under Section 5316, Title 49, United States Code to provide employment related transportation for low-income persons

From Federal Funds. . . . . 1,200,000E

Total. . . . . \$13,240,000

**SECTION 4.475.**— To the Department of Transportation

For the Transit Program

For grants under Section 5309, Title 49, United States Code to assist private, non-profit organizations providing public transportation services

From Federal Funds. . . . . \$8,480,000E

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**SECTION 4.480.**— To the Department of Transportation

For the Transit Program

For grants to metropolitan areas under Section 5305, Title 49,

United States Code

From Federal Funds. . . . . \$6,365,194E

**SECTION 4.485.**— To the Department of Transportation

For the Rail Program for infrastructure improvements and preliminary

engineering evaluations on the existing rail corridor between St. Louis

and Kansas City. This appropriation shall be used for the following

projects: Second Rail Bridge over the Osage River (\$22,640,000),

Webster Universal Crossover (\$3,520,000), Crossing Improvements

Projects (\$1,920,000), St. Louis Terminal Railroad Track Improvements

(\$3,600,000), Missouri State Rail Plan (\$500,000), Bonnot's Mill

Universal Crossover (\$611,000), Hermann Universal Crossover

(\$570,000), Knob Noster Passing Siding Extension (\$835,000),

Kingsville Siding (\$958,000), Strasburg Grade Separation (\$850,000),

Double Track Lee's Summit to Pleasant Hill (\$1,418,000), provided

that twenty-five percent (25%) flexibility is allowed between each project

From Federal Funds. . . . . \$37,422,000

**SECTION 4.490.**— To the Department of Transportation

For the Light Rail Safety Program

From Light Rail Safety Fund. . . . . \$1E

**SECTION 4.495.**— To the Department of Transportation

For the Rail Program

For passenger rail service in Missouri

From General Revenue Fund. . . . . \$7,900,000

**SECTION 4.500.**— To the Department of Transportation

For station repairs and improvements at Missouri Amtrak stations

From State Transportation Fund. . . . . \$25,000

**SECTION 4.505.**— To the Department of Transportation

For protection of the public against hazards existing at railroad crossings

pursuant to Chapter 389, RSMo

From Transportation Department Grade Crossing Safety Account. . . . . \$1,500,000E

**SECTION 4.510.**— There is transferred out of the State Treasury, chargeable

to the Transportation Department Grade Crossing Safety Account, to the

Railroad Expense Fund

From Transportation Department Grade Crossing Safety Account. . . . . \$100,000

**SECTION 4.515.**— To the Department of Transportation

For the Aviation Program

For construction, capital improvements, and maintenance of publicly owned

airfields, including land acquisition, and for printing charts and directories

From Aviation Trust Fund. . . . . \$8,000,000E



**SECTION 4.520.**— To the Department of Transportation

For the Aviation Program

For construction, capital improvements, or planning of publicly owned airfields  
 by cities or other political subdivisions, including land acquisition, pursuant  
 to the provisions of the State Block Grant Program administered through the  
 Federal Airport Improvement Program

From Federal Funds. . . . . \$12,500,000E

**SECTION 4.525.**— To the Department of Transportation

For the Waterways Program

For grants to port authorities for assistance in port planning, acquisition,  
 or construction within the port districts

From State Transportation Fund. . . . . \$359,747

**Department of Revenue Totals**

General Revenue Fund. . . . . \$75,481,322

Federal Funds. . . . . 6,865,545

Other Funds. . . . . 351,225,010

Total. . . . . \$433,571,877

**Department of Transportation Totals**

General Revenue Fund. . . . . \$9,094,129

Federal Funds. . . . . 116,946,746

Other Funds. . . . . 2,131,752,017

Total. . . . . \$2,257,792,892

Approved June 10, 2011

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**HB 5 [CCS SCS HCS HB 5]**

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**APPROPRIATIONS: OFFICE OF ADMINISTRATION, DEPARTMENT OF TRANSPORTATION,  
 DEPARTMENT OF CONSERVATION, DEPARTMENT OF PUBLIC SAFETY, CHIEF  
 EXECUTIVE'S OFFICE.**

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Office of Administration, the Department of Transportation, the Department of Conservation, the Department of Public Safety, and the Chief Executive's Office, and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2011 and ending June 30, 2012; provided that no funds from these sections shall be expended for the purpose of costs associated with travel or staffing for the offices of the Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, or Attorney General.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

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There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2011 and ending June 30, 2012, as follows:

**SECTION 5.005.**— To the Office of Administration

For the Commissioner's Office

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. . . . . \$872,508

For the Office of Equal Opportunity

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. . . . . 335,912

For the purpose of receiving and expending donations for a disparity study

From Office of Administration-Donated Fund . . . . . 1E

For the Martin Luther King, Jr. Commission

Expense and Equipment

From General Revenue Fund. . . . . 30,615

Total (Not to exceed 19.50 F.T.E.). . . . . \$1,239,036

**SECTION 5.010.**— To the Office of Administration

For the Division of Accounting

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund (Not to exceed 49.00 F.T.E.). . . . . \$2,169,754

**SECTION 5.015.**— To the Office of Administration

For the Division of Budget and Planning

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. . . . . \$1,638,267

For Census 2010 and reapportionment activities

From General Revenue Fund. . . . . 508,357

Total (Not to exceed 30.00 F.T.E.). . . . . \$2,146,624

**SECTION 5.020.**— To the Office of Administration

For the Information Technology Services Division

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed from expense and equipment to personal service and one-hundred percent (100%) flexibility is allowed from personal service to expense and equipment to allow for

payment of services associated with internal ITSD billing including funds used exclusively to support the information technology needs of the Department of Revenue in performance of its duties to collect highway revenue pursuant to Article IV, Section 30(b) of the Missouri Constitution  
 From General Revenue Fund. . . . . \$42,482,777

Personal Service and/or Expense and Equipment  
 From Federal and Other Funds . . . . . 147,656,925  
 From Revolving Information Technology Trust Fund . . . . . 80,000,000E

Personal Service and/or Expense and Equipment, for the purpose of acquiring or developing information technology equipment, software, or systems for the administration of Missouri's Unemployment Compensation Law and for such information technology expenses which may be incurred to ensure the proper use and operation of any information technology equipment, software, or systems from funds made available to Missouri under Section 903 of the Social Security Act  
 From Federal Funds . . . . . 798,281

Expense and Equipment  
 For the payment of Office of Administration ITSD employee benefits  
 From General Revenue Fund. . . . . 2,000,000E  
 From Federal and Other Funds. . . . . 3,000,000E  
 Total (Not to exceed 1,116.10 F.T.E.). . . . . \$275,937,983

**SECTION 5.021.**— To the Office of Administration  
 For the Information Technology Services Division  
 There is transferred out of the State Treasury, chargeable to the Office of Administration Revolving Administrative Trust Fund such amount necessary to move the Information Technology Services Division's cash balance to the new fund, hereby established as the Revolving Information Technology Trust Fund  
 From Office of Administration Revolving Administrative Trust Fund. . . . . \$6,500,000E

**SECTION 5.025.**— To the Office of Administration  
 For the Information Technology Services Division  
 For the centralized telephone billing system  
 Expense and Equipment  
 From Revolving Information Technology Trust Fund. . . . . \$28,029,276E

**SECTION 5.030.**— To the Office of Administration  
 For the Division of Personnel  
 Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment  
 From General Revenue Fund. . . . . \$2,271,679  
 From Office of Administration Revolving Administrative Trust Fund. . . . . 384,511  
 Total (Not to exceed 55.97 F.T.E.).. . . . \$2,656,190

**SECTION 5.035.**— To the Office of Administration  
 For the Division of Purchasing and Materials Management

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment  
 From General Revenue Fund (Not to exceed 33.00 F.T.E.). . . . . \$1,683,474

**SECTION 5.040.**— To the Office of Administration

For the Division of Purchasing and Materials Management

For refunding bid and performance bonds

From Office of Administration Revolving Administrative Trust Fund. . . . . \$2,112,000E

**SECTION 5.045.**— To the Office of Administration

For the Division of Purchasing and Materials Management

For the operation of the State Agency for Surplus Property

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

Personal Service. . . . . \$746,071

Expense and Equipment . . . . . 429,850E

For the Fixed Price Vehicle Program

Expense and Equipment. . . . . 600,000E

From Federal Surplus Property Fund (Not to exceed 20.00 F.T.E.). . . . . \$1,775,921

**SECTION 5.050.**— To the Office of Administration

For the Division of Purchasing and Materials Management

For Surplus Property recycling activities

Personal Service. . . . . \$45,984

Expense and Equipment . . . . . 41,610E

From Federal Surplus Property Fund (Not to exceed 1.00 F.T.E.). . . . . \$87,594

**SECTION 5.055.**— There is transferred out of the State Treasury, chargeable

to the Federal Surplus Property Fund, to the Department of Social Services

for the heating assistance program, as provided by Section 34.032, RSMo

From Federal Surplus Property Fund. . . . . \$20,000E

**SECTION 5.060.**— To the Office of Administration

For the Division of Purchasing and Materials Management

For the disbursement of surplus property sales receipts

From Proceeds of Surplus Property Sales Fund. . . . . \$90,000E

**SECTION 5.065.**— There is transferred out of the State Treasury, chargeable to

the Proceeds of Surplus Property Sales Fund, to various state agency funds

From Proceeds of Surplus Property Sales Fund. . . . . \$1,000,000E

**SECTION 5.070.**— To the Office of Administration

For the Division of Facilities Management, Design and Construction

Asset Management

For authority to spend donated funds to support renovations and operations of the Governor's Mansion

From State Facility Maintenance and Operation Fund. . . . . \$30,000E

**SECTION 5.075.**— To the Office of Administration

For the Division of Facilities Management, Design and Construction  
 Asset Management

For any and all expenditures necessary for the purpose of funding the operations  
 of the Board of Public Buildings, state-owned and leased office buildings,  
 institutional facilities, laboratories, and support facilities  
 Personal Service and/or Expense and Equipment, provided that not more  
 than fifty percent (50%) flexibility is allowed between each appropriation  
 From State Facility Maintenance and Operation Fund (Not to exceed  
 758.50 F.T.E.). . . . . \$92,687,696

**SECTION 5.079.**— There is transferred out of the State Treasury, chargeable to  
 the General Revenue Fund, to the State Capitol Commission Fund

From General Revenue Fund. . . . . \$100,000

**SECTION 5.080.**— To the Office of Administration

For the Division of Facilities Management, Design and Construction  
 Asset Management

For the purpose of funding expenditures associated with the State Capitol  
 Commission  
 Expense and Equipment  
 From State Capitol Commission Fund. . . . . \$125,000E

**SECTION 5.085.**— To the Board of Public Buildings

For the Office of Administration

For the Division of Facilities Management, Design and Construction  
 Asset Management

For modifications, replacement, repair costs, and other support services at  
 state-owned facilities when recovery is obtained from a third party  
 From State Facility Maintenance and Operation Fund. . . . . \$708,871E

**SECTION 5.090.**— To the Office of Administration

For the Division of General Services

Personal Service and/or Expense and Equipment, provided that not more  
 than twenty-five percent (25%) flexibility is allowed between personal  
 service and expense and equipment

From General Revenue Fund. . . . . \$915,473  
 From Office of Administration Revolving Administrative Trust Fund. . . . . 3,705,251  
 Total (Not to exceed 106.00 F.T.E.). . . . . \$4,620,724

**SECTION 5.095.**— There is transferred out of the State Treasury, chargeable  
 to the General Revenue Fund, to the State Property Preservation Fund

From General Revenue Fund. . . . . \$1E

**SECTION 5.100.**— To the Office of Administration

For the Division of General Services

For the repair or replacement of state-owned or leased facilities that have  
 suffered damage from natural or man-made events or for the defeasance  
 of outstanding debt secured by the damaged facilities when a notice of  
 coverage has been issued by the Commissioner of Administration, as

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provided by Sections 37.410 through 37.413, RSMo  
 From State Property Preservation Fund. . . . . \$1E

**SECTION 5.105.**— To the Office of Administration  
 For the Division of General Services

For reimbursable expenses and for the replacement or repair of damaged  
 equipment when recovery is obtained from a third party  
 Expense and Equipment  
 From Office of Administration Revolving Administrative Trust Fund. . . . . \$10,000,000E

**SECTION 5.110.**— There is transferred out of the State Treasury, chargeable  
 to the funds shown below, for the payment of claims, premiums, and  
 expenses as provided by Sections 105.711 through 105.726, RSMo,  
 to the State Legal Expense Fund

From General Revenue Fund. . . . . \$6,000,000E  
 From Federal and Other Funds. . . . . 757,435E  
 Total. . . . . \$6,757,435

**SECTION 5.115.**— To the Office of Administration  
 For the Division of General Services

For the payment of claims and expenses as provided by Section 105.711  
 et seq., RSMo, and for purchasing insurance against any or all liability  
 of the State of Missouri or any agency, officer, or employee thereof  
 From State Legal Expense Fund. . . . . \$6,757,435E

**SECTION 5.120.**— To the Office of Administration  
 For the Administrative Hearing Commission

Personal Service and/or Expense and Equipment, provided that not  
 more than twenty-five percent (25%) flexibility is allowed between  
 personal service and expense and equipment  
 From General Revenue Fund (Not to exceed 15.50 F.T.E.). . . . . \$995,637

**SECTION 5.125.**— To the Office of Administration

For the purpose of funding the Office of Child Advocate  
 Personal Service and/or Expense and Equipment, provided that not  
 more than twenty-five percent (25%) flexibility is allowed between  
 personal service and expense and equipment  
 From General Revenue Fund. . . . . \$177,128  
 From Federal Funds. . . . . 137,997  
 Total (Not to exceed 4.00 F.T.E.). . . . . \$315,125

**SECTION 5.130.**— To the Office of Administration

For the administrative, promotional, and programmatic costs of the Children's  
 Trust Fund Board as provided by Section 210.173, RSMo  
 Personal Service. . . . . \$211,199  
 Expense and Equipment . . . . . 145,140  
 For Program Disbursements. . . . . 3,360,000E  
 From Children's Trust Fund (Not to exceed 5.00 F.T.E.). . . . . \$3,716,339

**SECTION 5.135.**— To the Office of Administration

For the purpose of funding the Governor's Council on Disability	
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund. . . . .	\$188,831
From Office of Administration Revolving Administrative Trust Fund. . . . .	25,000
Total (Not to exceed 4.00 F.T.E.). . . . .	\$213,831

**SECTION 5.140.**— To the Office of Administration

For those services provided through the Office of Administration that are contracted with and reimbursed by the Board of Trustees of the Missouri Public Entity Risk Management Fund as provided by Chapter 537, RSMo	
Personal Service. . . . .	
Expense and Equipment. . . . .	
From Office of Administration Revolving Administrative Trust Fund (Not to exceed 14.00 F.T.E.). . . . .	\$707,016

**SECTION 5.145.**— To the Office of Administration

For the Missouri Ethics Commission	
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund (Not to exceed 22.00 F.T.E.). . . . .	\$1,372,080

**SECTION 5.147.**— To the Office of Administration

For the purpose of funding alternatives to abortion services for women at or below 200 percent (200%) of Federal Poverty Level, consisting of services or counseling offered to a pregnant woman and continuing for one year thereafter, to assist her in carrying her unborn child to term instead of having an abortion, and to assist her in caring for her dependent child or placing her child for adoption, including, but not limited to the following: prenatal care; medical and mental health care; parenting skills; drug and alcohol testing and treatment; child care; newborn or infant care; housing utilities; educational services; food, clothing, and supplies relating to pregnancy, newborn care, and parenting; adoption assistance; job training and placement; establishing and promoting responsible paternity; ultrasound services; case management; domestic abuse protection; and transportation. Actual provisions and delivery of such services shall be dependent on client needs and not otherwise prioritized by the Office of Administration. Such services shall be available only during pregnancy and continuing for one year thereafter, and shall exclude any family planning services. None of these funds shall be expended to perform or induce, assisting the performing or inducing of, or refer for, abortions; and none of these funds shall be granted to organizations or affiliates of organizations that perform or induce, assist in the performing or inducing of, or refer for, abortions	
From General Revenue Fund. . . . .	\$1,583,561

**SECTION 5.150.**— To the Office of Administration

For the Division of Accounting

For payment of rent by the state for state agencies occupying Board of  
Public Buildings revenue bond financed buildings. Funds are to be  
used for principal, interest, bond issuance costs, and reserve fund  
requirements of Board of Public Buildings bonds  
From General Revenue Fund. . . . . \$25,501,252E

**SECTION 5.155.**— To the Office of Administration  
For the Division of Accounting  
For annual fees, arbitrage rebate, refunding, defeasance, and related  
expenses of House Bill 5 debt  
From General Revenue Fund. . . . . \$30,654E

**SECTION 5.160.**— To the Office of Administration  
For the Division of Accounting  
For payment of the state's lease/purchase debt requirements  
From General Revenue Fund. . . . . \$1,936,779E  
From State Facilities Maintenance and Operations Fund. . . . . 2,599,691  
Total. . . . . \$4,536,470

**SECTION 5.165.**— To the Office of Administration  
For the Division of Accounting  
For MOHEFA debt service and all related expenses associated with the  
Series 2001 MU-Columbia Arena project bonds  
From General Revenue Fund. . . . . \$2,872,455

**SECTION 5.170.**— To the Office of Administration  
For the Information Technology Services Division  
For debt service related to Unified Communications  
From Revolving Information Technology Trust Fund. . . . . \$1,975,724E

**SECTION 5.180.**— To the Office of Administration  
For the Division of Facilities Management, Design and Construction  
For debt service related to guaranteed energy cost savings contracts  
From Facilities Maintenance Reserve Fund. . . . . \$5,800,956

**SECTION 5.185.**— To the Office of Administration  
For the Division of Accounting  
For Debt Management  
Expense and Equipment  
From General Revenue Fund. . . . . \$85,000

**SECTION 5.190.**— To the Office of Administration  
For the Division of Accounting  
For debt service contingency for the New Jobs and Jobs Retention Training  
Certificates Program  
From General Revenue Fund. . . . . \$1E

**SECTION 5.195.**— To the Office of Administration  
For the Division of Accounting  
For the Bartle Hall Convention Center expansion, operations, development, or



maintenance in Kansas City pursuant to Sections 67.638 through 67.641,  
RSMo  
From General Revenue Fund. . . . . \$2,000,000

**SECTION 5.200.**— To the Office of Administration  
For the Division of Accounting  
For the maintenance of the Jackson County Sports Complex pursuant to  
Sections 67.638 through 67.641, RSMo  
From General Revenue Fund. . . . . \$3,000,000

**SECTION 5.205.**— To the Office of Administration  
For the Division of Accounting  
For the expansion of the dual-purpose Edward Jones Dome project in St. Louis  
From General Revenue Fund. . . . . \$12,000,000

**SECTION 5.210.**— To the Office of Administration  
For the Division of Accounting  
For interest payments on federal grant monies in accordance with the Cash  
Management Improvement Act of 1990 and 1992, and any other interest  
or penalties due to the federal government  
From General Revenue Fund. . . . . \$300,000E

**SECTION 5.215.**— To the Office of Administration  
For the Division of Accounting  
For audit recovery distribution  
From General Revenue Fund. . . . . \$1E

**SECTION 5.220.**— There is transferred out of the State Treasury, chargeable  
to the Budget Reserve Fund and Other Funds, such amounts as may be  
necessary for cash-flow assistance to various funds, provided, however,  
that funds other than the Budget Reserve Fund will not be used without  
prior notification to the Commissioner of the Office of Administration,  
the Chair of the Senate Appropriations Committee, and the Chair of the  
House Budget Committee. Cash-flow assistance from funds other than  
the Budget Reserve Fund shall only be transferred from May 15 to  
June 30 in any fiscal year, and an amount equal to the transfer received,  
plus interest, shall be transferred back to the appropriate Other Funds  
prior to June 30 of the fiscal year in which the transfer was made  
From Budget Reserve Fund and Other Funds to General Revenue Fund. . . . \$399,999,999E  
From Budget Reserve Fund and Other Funds to Other Funds. . . . . 1E  
Total. . . . . \$400,000,000

**SECTION 5.225.**— There is transferred out of the State Treasury, such  
amounts as may be necessary for repayment of cash-flow assistance  
to the Budget Reserve Fund and Other Funds, provided, however,  
that the Commissioner of the Office of Administration, the Chair of  
the Senate Appropriations Committee, and the Chair of the House  
Budget Committee shall be notified when repayment to funds,  
other than the Budget Reserve Fund, has been made  
From General Revenue Fund. . . . . \$325,000,000E  
From Other Funds. . . . . 75,000,000E

Total. . . . . \$400,000,000

**SECTION 5.230.**— There is transferred out of the State Treasury, such amounts as may be necessary for interest payments on cash-flow assistance, to the Budget Reserve Fund and Other Funds

From General Revenue Fund. . . . . \$3,000,000E  
 From Other Funds. . . . . 1E  
 Total. . . . . \$3,000,001

**SECTION 5.235.**— There is transferred out of the State Treasury, such amounts as may be necessary for constitutional requirements of the Budget Reserve Fund

From General Revenue Fund. . . . . \$1E  
 From Budget Reserve Fund. . . . . 1E  
 Total. . . . . \$2

**SECTION 5.240.**— There is transferred out of the State Treasury, such amounts as may be necessary for corrections to fund balances

From General Revenue Fund. . . . . \$1E  
 From Other Funds. . . . . 1E  
 Total. . . . . \$2

**SECTION 5.245.**— There is transferred out of the State Treasury, chargeable to the Healthy Families Trust Fund, to the General Revenue Fund

From Healthy Families Trust Fund. . . . . \$32,000,000E

**SECTION 5.250.**— There is transferred out of the State Treasury, chargeable to various funds such amounts as are necessary for allocation of costs to other funds in support of the state's central services performed by the Office of Administration, the Department of Revenue, the Capitol Police, the Elected Officials, and the General Assembly, to the General Revenue Fund

From Other Funds. . . . . \$14,017,217E

**SECTION 5.255.**— There is transferred out of the State Treasury, chargeable to the Federal Budget Stabilization Fund to the General Revenue Fund

From Federal Budget Stabilization Fund. . . . . \$277,270,000

**SECTION 5.260.**— To the Office of Administration  
 For the Division of Accounting

For paying the several counties of Missouri the amount that has been paid into the State Treasury by the United States Treasury as a refund from the leases of flood control lands, under the provisions of an Act of Congress approved June 28, 1938, to be distributed to certain counties in Missouri in accordance with the provisions of state law

From Federal Funds. . . . . \$865,000E

**SECTION 5.265.**— To the Office of Administration  
 For the Division of Accounting

For paying the several counties of Missouri the amount that has been paid

into the State Treasury by the United States Treasury as a refund from the National Forest Reserve, under the provisions of an Act of Congress approved June 28, 1938, to be distributed to certain counties in Missouri

From Federal Funds. . . . .	\$2,415,000E
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**SECTION 5.270.**— To the Office of Administration

For the Division of Accounting

For payments to counties for county correctional prosecution reimbursements pursuant to Sections 50.850 and 50.853, RSMo

From General Revenue Fund. . . . .	\$15,000E
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**SECTION 5.275.**— To the Office of Administration

For the Commissioner's Office

For distribution of state grants to regional planning commissions and local governments as provided by Chapter 251, RSMo

From General Revenue Fund. . . . .	\$100,000
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**SECTION 5.450.**— To the Office of Administration

For transferring funds for state employees and participating political subdivisions to the OASDHI Contributions Fund

From General Revenue Fund. . . . .	\$69,623,000E
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From Federal Funds . . . . .	26,693,791E
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From Other Funds. . . . .	<u>41,066,459E</u>
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Total. . . . .	\$137,383,250
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**SECTION 5.455.**— For the Department of Public Safety

For transferring funds for employees of the State Highway Patrol to the OASDHI Contributions Fund, said transfers to be administered by the Office of Administration

From State Highways and Transportation Department Fund. . . . .	\$7,389,000E
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**SECTION 5.460.**— To the Office of Administration

For the Division of Accounting

For the payment of OASDHI taxes for all state employees and for participating political subdivisions within the state to the Treasurer of the United States for compliance with current provisions of Title 2 of the Federal Social Security Act, as amended, in accordance with the agreement between the State Social Security Administrator and the Secretary of the Department of Health and Human Services; and for administration of the agreement under Section 218 of the Social Security Act which extends Social Security benefits to state and local public employees

From OASDHI Contributions Fund. . . . .	\$144,772,250E
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**SECTION 5.465.**— To the Office of Administration

For transferring funds for the state's contribution to the Missouri State

Employees' Retirement System to the State Retirement Contributions Fund

From General Revenue Fund. . . . .	\$162,477,000E
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From Federal Funds . . . . .	55,530,932E
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From Other Funds. . . . .	<u>41,852,158E</u>
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Total. . . . .	\$259,860,090
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**SECTION 5.470.**— To the Office of Administration

For the Division of Accounting

For payment of the state's contribution to the Missouri State

Employees' Retirement System

From State Retirement Contributions Fund. . . . . \$259,860,090E

**SECTION 5.475.**— To the Office of Administration

For the Division of Accounting

For payment of retirement benefits to the Public School Retirement

System pursuant to Section 104.342, RSMo

From General Revenue Fund. . . . . \$2,400,000E

From Federal Funds . . . . . 1,070,000E

From Other Funds. . . . . 70,560E

Total. . . . . \$3,540,560

**SECTION 5.480.**— To the Office of Administration

For the Division of Accounting

For reimbursing the Division of Employment Security benefit account for

claims paid to former state employees for unemployment insurance

coverage and for related professional services

From General Revenue Fund. . . . . \$1,641,878E

From Federal Funds . . . . . 571,457E

From Other Funds . . . . . 1,622,832E

Total. . . . . \$3,836,167

**SECTION 5.485.**— To the Office of Administration

For the Division of Accounting

For reimbursing the Division of Employment Security benefit account for

claims paid to former state employees of the Department of Public Safety

for unemployment insurance coverage and for related professional services

From State Highways and Transportation Department Fund. . . . . \$169,942E

**SECTION 5.490.**— To the Office of Administration

For transferring funds for the state's contribution to the Missouri

Consolidated Health Care Plan to the Missouri Consolidated

Health Care Plan Benefit Fund

From General Revenue Fund. . . . . \$233,868,832E

From Federal Funds . . . . . 91,492,779E

From Other Funds. . . . . 50,535,234E

Total. . . . . \$375,896,845

**SECTION 5.495.**— To the Office of Administration

For the Division of Accounting

For payment of the state's contribution to the Missouri Consolidated

Health Care Plan

From Missouri Consolidated Health Care Plan Benefit Fund. . . . . \$375,896,845E

**SECTION 5.500.**— To the Office of Administration

For the Division of Accounting

For the reimbursement of COBRA expenditures

From the State Road Fund. . . . .	\$19,400E
From the Conservation Commission Fund. . . . .	2,140E
From the Missouri Consolidated Health Care Benefit Fund. . . . .	<u>124,000E</u>
Total. . . . .	\$145,540

**SECTION 5.505.**— To the Office of Administration

For the Division of Accounting

For paying refunds for overpayment or erroneous payment of employee  
withholding taxes

From General Revenue Fund. . . . .	\$36,000E
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**SECTION 5.510.**— To the Office of Administration

For the Division of Accounting

For providing voluntary life insurance

From the Missouri State Employees' Voluntary Life Insurance Fund. . . . .	\$862,000E
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**SECTION 5.515.**— To the Office of Administration

For the Division of Accounting

For employee medical expense reimbursements reserve

From General Revenue Fund. . . . .	\$1E
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**SECTION 5.520.**— To the Office of Administration

For the Division of Accounting

Personal Service for state payroll contingency

From General Revenue Fund. . . . .	\$1E
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**SECTION 5.525.**— To the Office of Administration

For the Division of General Services

For the provision of workers' compensation benefits to state employees  
through either a self-insurance program administered by the Office of  
Administration and/or by contractual agreement with a private carrier  
and for administrative and legal expenses authorized, in part, by  
Section 105.810, RSMo

From General Revenue Fund. . . . .	\$22,962,503E
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From Conservation Commission Fund. . . . .	<u>800,000E</u>
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Total. . . . .	\$23,762,503
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**SECTION 5.530.**— There is hereby transferred out of the State Treasury,  
chargeable to various funds, amounts paid from the General Revenue  
Fund for workers' compensation benefits provided to employees paid  
from these other funds, to the General Revenue Fund

From Federal Funds. . . . .	\$1,846,342E
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From Other Funds . . . . .	<u>2,506,236E</u>
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Total. . . . .	\$4,352,578
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**SECTION 5.535.**— To the Office of Administration

For the Division of General Services

For workers' compensation tax payments pursuant to Section 287.690, RSMo

From General Revenue Fund. . . . .	\$1,465,000E
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From Conservation Commission Fund. . . . .	<u>60,000E</u>
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Total. . . . . \$1,525,000

**Office of Administration Totals**

General Revenue Fund. . . . . \$116,167,198  
Federal Funds. . . . . 74,104,464  
Other Funds. . . . . 56,145,301  
Total. . . . . \$246,416,963

**Employee Benefits Totals**

General Revenue Fund. . . . . \$494,438,215  
Federal Funds. . . . . 175,358,959  
Other Funds. . . . . 144,573,725  
Total. . . . . \$814,370,899

Approved June 10, 2011

**HB 6 [CCS SCS HCS HB 6]**

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**APPROPRIATIONS: DEPARTMENT OF AGRICULTURE, DEPARTMENT OF NATURAL RESOURCES, AND DEPARTMENT OF CONSERVATION.**

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Agriculture, Department of Natural Resources, Department of Conservation, and the several divisions and programs thereof and for the expenses, grants, refunds, distributions, and capital improvements projects involving the repair, replacement, and maintenance of state buildings and facilities of the Department of Natural Resources and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds, for the period beginning July 1, 2011 and ending June 30, 2012; provided that no funds from these sections shall be expended for the purpose of costs associated with travel or staffing for the offices of the Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, or Attorney General.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2011 and ending June 30, 2012 as follows:

**SECTION 6.005.**— To the Department of Agriculture  
For the Office of the Director

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. . . . .	\$268,392
From Federal and Other Funds . . . . .	1,152,684

For refunds of erroneous receipts due to errors in application for licenses,  
registrations, permits, certificates, subscriptions, or other fees

From General Revenue Fund. . . . .	3,639E
From Federal and Other Funds . . . . .	3,640E

For the purpose of receiving and expending grants, donations, contracts, and  
payments from private, federal, and other governmental agencies which  
may become available between sessions of the General Assembly  
provided that the General Assembly shall be notified of the source of  
any new funds and the purpose for which they shall be expended, in  
writing, prior to the use of said funds

Personal Service and/or Expense and Equipment

From Federal and Other Funds. . . . .	337,909E
Total (Not to exceed 21.00 F.T.E.).. . . .	\$1,766,264

**SECTION 6.007.**— To the Department of Agriculture

There is hereby transferred out of the State Treasury, chargeable to the

General Revenue Fund, to the Veterinary Student Loan Payment Fund

From General Revenue Fund. . . . .	\$120,000
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**SECTION 6.008.**— To the Department of Agriculture

For the purpose of providing large animal veterinary student loans in  
accordance with the provisions of Section 340.375 to 340.396, RSMo

From Veterinary Student Loan Payment Fund. . . . .	\$120,000
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**SECTION 6.010.**— To the Department of Agriculture

There is hereby transferred out of the State Treasury, chargeable to the

General Revenue Fund, to the Missouri Qualified Fuel Ethanol

Producer Incentive Fund

From General Revenue Fund. . . . .	\$8,875,000
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There is hereby transferred out of the State Treasury, chargeable to the

General Revenue Fund, to the Missouri Qualified Biodiesel Producer

Incentive Fund

From General Revenue Fund. . . . .	11,887,500
Total. . . . .	\$20,762,500

**SECTION 6.015.**— To the Department of Agriculture

For Missouri Fuel Ethanol Producer Incentive Payments

From Missouri Qualified Fuel Ethanol Producer Incentive Fund. . . . .	\$8,875,000
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For Missouri Biodiesel Producer Incentive Payments

From Missouri Qualified Biodiesel Producer Incentive Fund. . . . .	11,887,500
Total. . . . .	\$20,762,500

**SECTION 6.020.**— To the Department of Agriculture

For the Agriculture Business Development Division

Personal Service and/or Expense and Equipment, provided that not

more than twenty-five percent (25%) flexibility is allowed between  
 personal service and expense and equipment. . . . . \$2,097,345  
 For the Agriculture Awareness Program. . . . . 24,910  
 For the Governor's Conference on Agriculture and the Midwest  
 Association of State Departments of Agriculture Conference expenses. . . . . 250,000  
 From Federal and Other Funds (Not to exceed 24.51 F.T.E.). . . . . \$2,372,255

**SECTION 6.025.**— To the Department of Agriculture

For the Agriculture Business Development Division

For the Agri Missouri Marketing Program

Personal Service and/or Expense and Equipment, provided that not  
 more than twenty-five percent (25%) flexibility is allowed between  
 personal service and expense and equipment  
 From Federal and Other Funds (Not to exceed 0.97 F.T.E.). . . . . \$164,390

**SECTION 6.030.**— To the Department of Agriculture

For the Agriculture Business Development Division

For the Wine and Grape Program

Personal Service. . . . . \$206,616  
 Expense and Equipment. . . . . 1,622,243  
 From Other Funds (Not to exceed 4.00 F.T.E.). . . . . \$1,828,859

**SECTION 6.035.**— To the Department of Agriculture

For the Agriculture Business Development Division

For the Agriculture and Small Business Development Authority

Personal Service. . . . . \$106,883  
 Expense and Equipment. . . . . 21,379  
 From Single-Purpose Animal Facilities Loan Program Fund (Not to exceed  
 3.00 F.T.E.). . . . . \$128,262

**SECTION 6.040.**— To the Department of Agriculture

There is hereby transferred out of the State Treasury, chargeable to  
 the General Revenue Fund, to the Single-Purpose Animal Facilities  
 Loan Guarantee Fund

From General Revenue Fund. . . . . \$1E

**SECTION 6.045.**— To the Department of Agriculture

For the purpose of funding loan guarantees as provided in Sections

348.190 and 348.200, RSMo

From Single-Purpose Animal Facilities Loan Guarantee Fund. . . . . \$1E

**SECTION 6.050.**— To the Department of Agriculture

There is hereby transferred out of the State Treasury, chargeable to the  
 General Revenue Fund, to the Agricultural Product Utilization and  
 Business Development Loan Guarantee Fund

From General Revenue Fund. . . . . \$1E

**SECTION 6.055.**— To the Department of Agriculture

For the purpose of funding loan guarantees as provided in Sections

348.403, 348.408, and 348.409, RSMo



From Agricultural Product Utilization and Business Development Loan  
Guarantee Fund. . . . . \$1E

**SECTION 6.057.**— To the Department of Agriculture

There is hereby transferred out of the State Treasury, chargeable to the  
General Revenue Fund, to the Livestock Feed and Crop Input Guarantee  
Fund

From General Revenue Fund. . . . . \$1E

**SECTION 6.058.**— To the Department of Agriculture

For the purpose of funding loan guarantees for loans administered by the  
Missouri Agricultural and Small Business Development Authority for  
the purpose of financing the purchase of livestock feed used to produce  
livestock and input used to produce crops for the feeding of livestock,  
provided that the appropriation may not exceed \$2,000,000

From Livestock Feed and Crop Input Loan Guarantee Fund. . . . . \$1E

**SECTION 6.060.**— To the Department of Agriculture

For the Agriculture Business Development Division

For the Agriculture Development Program

Personal Service. . . . . \$72,577

Expense and Equipment . . . . . 48,256

For all monies in the Agriculture Development Fund for investments,  
reinvestments, and for emergency agricultural relief and rehabilitation  
as provided by law. . . . . 100,000

From Agriculture Development Fund (Not to exceed 1.60 F.T.E.). . . . . \$220,833

**SECTION 6.065.**— To the Department of Agriculture

For the Division of Animal Health

Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment

From General Revenue Fund. . . . . \$3,567,188

Personal Service. . . . . 1,335,851

Expense and Equipment . . . . . 1,578,163E

From Federal and Other Funds . . . . . 2,914,014

To support local efforts to spay and neuter cats and dogs

From Missouri Pet Spay/Neuter Fund . . . . . 1E

To support the Livestock Brands Program

From Livestock Brands Fund . . . . . 38,151

For enforcement activities related to the Livestock Dealer Law

From Livestock Dealer Law Enforcement and Administration Fund. . . . . 12,250

For expenses incurred in regulating Missouri livestock markets

From Livestock Sales and Markets Fees Fund . . . . . 32,565

For processing livestock market bankruptcy claims

From Agriculture Bond Trustee Fund . . . . .	135,000
For the expenditures of contributions, gifts, and grants in support of relief efforts to reduce the suffering of abandoned animals	
From Institution Gift Trust Fund. . . . .	<u>5,000</u>
Total (Not to exceed 83.35 F.T.E.). . . . .	\$6,704,169

**SECTION 6.070.**— To the Department of Agriculture

For the Division of Animal Health

For funding indemnity payments and for indemnifying producers and owners  
of livestock and poultry for preventing the spread of disease during  
emergencies declared by the State Veterinarian, subject to the approval  
by the Department of Agriculture of a state match rate up to fifty  
percent (50%)

From General Revenue Fund. . . . .	\$1E
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**SECTION 6.075.**— To the Department of Agriculture

For the Division of Grain Inspection and Warehousing

Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment

From General Revenue Fund. . . . .	\$752,860
From Federal and Other Funds . . . . .	122,003

Personal Service. . . . .	1,472,956
Expense and Equipment . . . . .	282,047
Payment of Federal User Fee. . . . .	<u>100,000</u>
From Grain Inspection Fees Fund. . . . .	1,855,003

Personal Service. . . . .	75,103
Expense and Equipment. . . . .	<u>22,446</u>
From Commodity Council Merchandising Fund. . . . .	97,549
Total (Not to exceed 65.25 F.T.E.). . . . .	\$2,827,415

**SECTION 6.080.**— To the Department of Agriculture

For the Division of Grain Inspection and Warehousing

For the Missouri Aquaculture Council

From Aquaculture Marketing Development Fund. . . . .	\$1E
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For refunds to individuals and reimbursements to commodity councils

From Commodity Council Merchandising Fund. . . . .	10,000E
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For research, promotion, and market development of apples

From Apple Merchandising Fund. . . . .	1E
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For the Missouri Wine Marketing and Research Council

From Missouri Wine Marketing and Research Development Fund. . . . .	<u>1E</u>
Total. . . . .	\$10,003

**SECTION 6.085.**— To the Department of Agriculture

For the Division of Plant Industries

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund. . . . .	\$146,789
From Federal and Other Funds. . . . .	<u>3,329,866</u>
Total (Not to exceed 60.71 F.T.E.).. . . .	\$3,476,655

**SECTION 6.090.**— To the Department of Agriculture

For the Division of Weights and Measures

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund. . . . .	\$525,572
From Federal and Other Funds . . . . .	<u>712,048</u>

Personal Service. . . . .	1,504,637
Expense and Equipment. . . . .	<u>771,270</u>
From Petroleum Inspection Fund. . . . .	<u>2,275,907</u>
Total (Not to exceed 70.11 F.T.E.).. . . .	\$3,513,527

**SECTION 6.095.**— To the Department of Agriculture

For the Missouri State Fair

Personal Service and/or Expense and Equipment	
From Federal and Other Funds. . . . .	\$498,249

Personal Service. . . . .	1,424,750
Expense and Equipment. . . . .	<u>2,726,645</u>
From State Fair Fees Fund. . . . .	<u>4,151,395</u>
Total (Not to exceed 63.38 F.T.E.).. . . .	\$4,649,644

**SECTION 6.100.**— To the Department of Agriculture

For cash to start the Missouri State Fair

Expense and Equipment	
From State Fair Fees Fund. . . . .	\$75,000
From State Fair Trust Fund. . . . .	<u>10,000</u>
Total. . . . .	\$85,000

**SECTION 6.105.**— To the Department of Agriculture

For the Missouri State Fair

For equipment replacement

Expense and Equipment	
From State Fair Fees Fund. . . . .	\$166,062

**SECTION 6.110.**— To the Department of Agriculture

For the Missouri State Fair

For the Aid-to-Fairs Premiums Program for youth participants in county, local, and district fairs

From Other Funds. . . . .	\$1E
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**SECTION 6.115.**— To the Department of Agriculture

For the State Milk Board

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment  
 From General Revenue Fund. . . . . \$101,144

Personal Service and/or Expense and Equipment  
 From Milk Inspection Fees Fund . . . . . 1,433,859

Expense and Equipment  
 From State Contracted Manufacturing Dairy Plant Inspection and Grading Fee Fund. . . . . 8,000  
 From Agriculture Protection Fund. . . . . 14,481  
 Total (Not to exceed 11.93 F.T.E.). . . . . \$1,557,484

**SECTION 6.200.**— To the Department of Natural Resources

For department operations, administration, and support

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment  
 From General Revenue Fund. . . . . \$298,538

Personal Service. . . . . 3,727,864  
 Expense and Equipment. . . . . 1,038,329  
 From Federal and Other Funds . . . . . 4,766,193

For Contractual Audits

From Federal and Other Funds. . . . . 100,000E  
 Total (Not to exceed 87.19 F.T.E.). . . . . \$5,164,731

**SECTION 6.205.**— To the Department of Natural Resources

For the Division of Energy

Personal Service. . . . . \$2,241,219  
 Expense and Equipment. . . . . 339,521  
 From Federal and Other Funds . . . . . 2,580,740

For the purpose of funding the promotion of energy, renewable energy, and energy efficiency

From Utilicare Stabilization Fund. . . . . 100E  
 From Federal and Other Funds. . . . . 8,288,921E  
 Total (Not to exceed 50.00 F.T.E.). . . . . \$10,869,761

**SECTION 6.210.**— To the Department of Natural Resources

For the Water Resources Center, including the Soil and Water Conservation

Program, the Division of Environmental Quality, the Division of Geology and Land Survey, and the Division of Energy

Personal Service and/or Expense and Equipment provided that not more than twenty-five percent (25%) flexibility is allowed between the divisions and/or centers listed in this section and that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment  
 From General Revenue Fund. . . . . \$8,087,133

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Personal Service. . . . .	34,837,619
Expense and Equipment. . . . .	<u>12,299,489</u>
From Federal and Other Funds . . . . .	47,137,108
For demonstration projects and technical assistance related to soil and water conservation	
From Federal Funds . . . . .	100,000
For grants to local soil and water conservation districts. . . . .	11,680,820E
For soil and water conservation cost-share grants. . . . .	24,000,000E
For a conservation equipment incentive program . . . . .	500,000E
For a special area land treatment program. . . . .	2,800,000E
For grants to colleges and universities for research projects on soil erosion and conservation. . . . .	<u>75,000E</u>
From Soil and Water Sales Tax Fund . . . . .	39,055,820
For state construction grants and loans	
From Federal and Other Funds . . . . .	3,000,000E
For loans pursuant to Sections 644.026 through 644.124, RSMo	
From Water and Wastewater Loan Fund and/or Water and Wastewater Loan Revolving Fund . . . . .	49,000,000E
For rural sewer and water grants and loans	
From Water Pollution Control Fund and/or Rural Water and Sewer Loan Revolving Fund . . . . .	20,660,000E
For stormwater control grants or loans	
From Water Pollution Control Fund, Stormwater Control Fund, and/or Stormwater Loan Revolving Fund. . . . .	19,014,141E
For loans for drinking water systems pursuant to Sections 644.026 through 644.124, RSMo	
From Water and Wastewater Loan Fund and/or Water and Wastewater Loan Revolving Fund . . . . .	14,000,000E
For grants and contracts to study or reduce water pollution, improve ground water and/or surface water quality	
From Federal Funds . . . . .	9,444,925E
From Natural Resources Protection Fund-Water Pollution Permit Fee Subaccount. . .	50,000E
For drinking water sampling, analysis, and public drinking water quality and treatment studies	
From Safe Drinking Water Fund. . . . .	600,000E
For closure of concentrated animal feeding operations	
From Concentrated Animal Feeding Operation Indemnity Fund. . . . .	100,000
For grants and contracts for air pollution control activities	
From Federal and Other Funds . . . . .	3,751,934E

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For asbestos grants and contracts	
From Natural Resources Protection Fund-Air Pollution Asbestos Fee Subaccount. . .	75,000E
For the cleanup of leaking underground storage tanks	
From Federal Funds . . . . .	420,000
For the cleanup of hazardous waste sites	
From Federal and Other Funds . . . . .	975,000E
From Hazardous Waste Fund. . . . .	21,274E
From Dry-cleaning Environmental Response Trust Fund. . . . .	200,000E
For implementation provisions of the Solid Waste Management Law in accordance with Sections 260.250 through 260.345, RSMo	
From Solid Waste Management Fund . . . . .	6,300,000E
From Solid Waste Management Fund-Scrap Tire Subaccount . . . . .	1,250,000E
For funding all expenditures of forfeited financial assurance instruments to ensure proper closure and post closure of solid waste landfills, with General Revenue Fund expenditures not to exceed collections pursuant to Section 260.228, RSMo	
From General Revenue Fund. . . . .	16,369E
From Post Closure Fund . . . . .	141,599E
For the receipt and expenditure of bond forfeiture funds for the reclamation of mined land	
From Mined Land Reclamation Fund . . . . .	900,000
For the reclamation of mined lands under the provisions of Section 444.960, RSMo	
From Coal Mine Land Reclamation Fund . . . . .	350,000
For the reclamation of abandoned mined lands	
From Federal Funds . . . . .	2,750,000E
For contracts for hydrologic studies to assist small coal operators to meet permit requirements	
From Federal Funds . . . . .	50,000
For contracts for the analysis of hazardous waste samples	
From Federal Funds . . . . .	100,000
From Hazardous Waste Fund. . . . .	60,210
For the environmental emergency response system	
From Other Funds . . . . .	30,000E
From Federal Funds . . . . .	250,000
For emergency response loans in accordance with Section 260.546, RSMo	
From Hazardous Waste Fund. . . . .	150,000
For cleanup of controlled substances	
From Federal Funds . . . . .	124,999E

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For funding environmental education and studies, demonstration projects,  
and technical assistance grants  
From Federal and Other Funds . . . . . 125,000E

For expenditures in accordance with the provisions of Section 259.190, RSMo  
From Oil and Gas Remedial Fund . . . . . 23,000E

For surveying corners and for records restorations  
From Federal and Other Funds. . . . . 240,000  
Total (Not to exceed 949.71 F.T.E.) . . . . . \$228,553,512

**SECTION 6.215.**— To the Department of Natural Resources  
There is hereby transferred out of the State Treasury, chargeable to the  
General Revenue Fund, to the Missouri Water Development Fund  
From General Revenue Fund. . . . . \$696,118

**SECTION 6.220.**— To the Department of Natural Resources  
For the payment of interest, operations, and maintenance in accordance  
with the Cannon Water Contract  
From Missouri Water Development Fund. . . . . \$696,118

**SECTION 6.225.**— To the Department of Natural Resources  
For petroleum related activities and environmental emergency response  
Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment  
From Petroleum Storage Tank Insurance Fund (Not to exceed 16.20 F.T.E.) . . . . \$1,089,688

**SECTION 6.230.**— To the Department of Natural Resources  
For the Board of Trustees for the Petroleum Storage Tank Insurance Fund  
For the general administration and operation of the fund  
Personal Service. . . . . \$190,351  
Expense and Equipment . . . . . 2,101,000

For the purpose of investigating and paying claims obligations of the Petroleum  
Storage Tank Insurance Fund . . . . . 19,000,000E  
For the purpose of funding the refunds of erroneously collected receipts. . . . . 10,000E  
From Petroleum Storage Tank Insurance Fund (Not to exceed 2.00 F.T.E.) . . . . \$21,301,351

**SECTION 6.235.**— To the Department of Natural Resources  
For the Division of State Parks  
For field operations, administration, and support  
Personal Service. . . . . \$20,908,855  
Expense and Equipment. . . . . 11,439,507  
From Federal and Other Funds . . . . . 32,348,362

For payments to levee districts  
From Parks Sales Tax Fund. . . . . 1E

For the Bruce R. Watkins Cultural Heritage Center  
From Parks Sales Tax Fund. . . . . 100,000

For the payment to counties in lieu of real property taxes, as appropriate, on lands acquired by the department after July 1, 1985, for park purposes and not more than the amount of real property tax imposed by political subdivisions at the time acquired, in accordance with the provisions of Section 47(a) of the Constitution of Missouri

From Parks Sales Tax Fund. . . . . 25,875E

For recoupments and donations that are consistent with current operations and conceptual development plans. The expenditure of any single directed donation of funds greater than \$500,000 requires the notification of the chairperson or designee of both Senate Appropriations and House Budget committees

From State Park Earnings Fund. . . . . 72,390E

For the purchase of publications, souvenirs, and other items for resale at state parks and state historic sites  
Expense and Equipment

From State Park Earnings Fund. . . . . 500,000E

For all expenses incurred in the operation of state park concession projects or facilities when such operations are assumed by the Department of Natural Resources

From State Park Earnings Fund. . . . . 200,000E

For the expenditure of grants to state parks

From Federal and Other Funds . . . . . 350,000E

For grants-in-aid from the Land and Water Conservation Fund and other funds to state agencies and political subdivisions for outdoor recreation projects

From Federal Funds. . . . . 2,324,034E

Total (Not to exceed 660.71 F.T.E.). . . . . \$35,920,662

**SECTION 6.240.— To the Department of Natural Resources**

For Historic Preservation Operations

Personal Service. . . . . \$707,567

Expense and Equipment. . . . . 107,351

From Federal and Other Funds . . . . . 814,918

For historic preservation grants and contracts

From Federal and Other Funds . . . . . 1,807,243E

For the purpose of funding Civil War commemoration activities

From Federal and Other Funds. . . . . 1E

Total (Not to exceed 18.25 F.T.E.). . . . . \$2,622,162

**SECTION 6.250.— To the Department of Natural Resources**

For expenditures of payments received for damages to the state's natural resources

From Natural Resources Protection Fund-Damages Subaccount or Natural

Resources Protection Fund-Water Pollution Permit Fee Subaccount. . . . . \$269,711E

**SECTION 6.255.— To the Department of Natural Resources**



For incentives related to Jobs Now Projects approved by the Department  
of Natural Resources and the Office of Administration  
From Federal and Other Funds. . . . . \$1,000E

**SECTION 6.260.**— To the Department of Natural Resources  
For revolving services  
Expense and Equipment  
From Natural Resources Revolving Services Fund. . . . . \$3,126,244

**SECTION 6.265.**— To the Department of Natural Resources  
For the purpose of funding the refund of erroneously collected receipts  
From Federal and Other Funds. . . . . \$250,000E

**SECTION 6.270.**— To the Department of Natural Resources  
For sales tax on retail sales  
From Federal and Other Funds. . . . . \$203,000E

**SECTION 6.275.**— To the Department of Natural Resources  
For the purpose of receiving and expending grants, donations, contracts,  
and payments from private, federal, and other governmental agencies  
which may become available between sessions of the General Assembly  
provided that the General Assembly shall be notified of the source of any  
new funds and the purpose for which they shall be expended, in writing,  
prior to the use of said funds  
Personal Service and/or Expense and Equipment  
From Federal and Other Funds. . . . . \$1

**SECTION 6.280.**— There is hereby transferred out of the State Treasury to the  
Department of Natural Resources Cost Allocation Fund for the department,  
for real property leases, related services, utilities, systems furniture, structural  
modifications, capital improvements and related expenses, and for the  
purpose of funding the consolidation of Information Technology Services  
From Federal and Other Funds. . . . . \$19,287,857

**SECTION 6.285.**— There is hereby transferred out of the State Treasury to the  
OA Information Technology Federal and Other Fund for the purpose of  
funding the consolidation of Information Technology Services  
From Federal Funds. . . . . \$2,788,018

**SECTION 6.290.**— To the Department of Natural Resources  
For the State Environmental Improvement and Energy Resources Authority  
For all costs incurred in the operation of the authority, including special studies  
From State Environmental Improvement Authority Fund. . . . . \$1E

**SECTION 6.600.**— To the Department of Conservation  
For Personal Service and Expense and Equipment, including refunds; and for  
payments to counties for the unimproved value of land in lieu of property  
taxes for privately owned lands acquired by the Conservation Commission  
after July 1, 1977, and for lands classified as forest croplands  
From Conservation Commission Fund (Not to exceed 1,842.81 F.T.E.). . . . . \$145,467,841

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**Department of Agriculture Totals**

General Revenue Fund. . . . .	\$26,244,449
Federal Funds. . . . .	4,475,585
Other Funds. . . . .	<u>19,616,014</u>
Total. . . . .	\$50,336,048

**Department of Natural Resources Totals**

General Revenue Fund. . . . .	\$9,098,158
Federal Funds. . . . .	44,513,863
Other Funds. . . . .	<u>256,195,821</u>
Total. . . . .	\$309,807,842

**Department of Conservation Totals**

Total - Other Funds. . . . .	\$145,467,841
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Approved June 10, 2011

**HB 7 [CCS SCS HCS HB 7]**

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**APPROPRIATIONS: DEPARTMENTS OF ECONOMIC DEVELOPMENT; INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION; AND LABOR AND INDUSTRIAL RELATIONS.**

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Economic Development, Department of Insurance, Financial Institutions and Professional Registration, Department of Labor and Industrial Relations and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2011 and ending June 30, 2012; provided that no funds from these sections shall be expended for the purpose of costs associated with travel or staffing for the offices of the Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, or Attorney General.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2011 and ending June 30, 2012 as follows:

**SECTION 7.005.**— To the Department of Economic Development

For general administration of Administrative Services

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. . . . .	\$459,146
Personal Service. . . . .	1,088,728
Expense and Equipment. . . . .	<u>463,035</u>
From Federal Funds . . . . .	1,551,763
Personal Service. . . . .	397,214
Expense and Equipment . . . . .	501,292
For refunds. . . . .	<u>5,000E</u>
From Department of Economic Development Administrative Fund. . . . .	<u>903,506</u>
Total (Not to exceed 38.31 F.T.E.). . . . .	\$2,914,415

**SECTION 7.010.**— To the Department of Economic Development  
Funds are to be transferred, for payment of administrative costs, to the

Department of Economic Development Administrative Fund	
From Federal Funds. . . . .	\$247,990E
From Division of Tourism Supplemental Revenue Fund . . . . .	159,347E
From Manufactured Housing Fund . . . . .	11,065E
From Public Service Commission Fund. . . . .	208,224E
From Missouri Arts Council Trust Fund. . . . .	<u>40,315</u>
Total. . . . .	\$666,941

**SECTION 7.015.**— To the Department of Economic Development

For the Division of Business and Community Services

For the Missouri Economic Research and Information Center

Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment and not more than  
twenty-five percent (25%) flexibility is allowed between teams

From General Revenue Fund. . . . .	\$128,669
From Federal Funds . . . . .	1,744,163

For the Marketing Team

Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment and not more than  
twenty-five percent (25%) flexibility is allowed between teams

From General Revenue Fund. . . . .	345,502
From Federal Funds . . . . .	184,838
From Department of Economic Development Administrative Fund. . . . .	42,680
From International Promotions Revolving Fund . . . . .	72,238E
From Economic Development Advancement Fund . . . . .	464,721

For the Sales Team

Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment and not more than  
twenty-five percent (25%) flexibility is allowed between teams

From General Revenue Fund. . . . .	850,904
From Federal Funds . . . . .	106,498
From Department of Economic Development Administrative Fund. . . . .	6,620

From Economic Development Advancement Fund . . . . .	386,324
For the Finance Team	
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment and not more than twenty-five percent (25%) flexibility is allowed between teams	
From Federal Funds . . . . .	321,402
From Economic Development Advancement Fund . . . . .	882,310
For the Compliance Team	
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment and not more than twenty-five percent (25%) flexibility is allowed between teams	
From General Revenue Fund. . . . .	86,769
From Federal Funds . . . . .	779,096
From Economic Development Advancement Fund . . . . .	29,781
For refunding any overpayment or erroneous payment of any amount that is credited to the Economic Development Advancement Fund	
From Economic Development Advancement Fund . . . . .	1E
For International Trade and Investment Offices	
From Economic Development Advancement Fund . . . . .	650,000
For business recruitment and marketing	
From Economic Development Advancement Fund. . . . .	<u>2,250,000</u>
Total (Not to exceed 111.34 F.T.E.). . . . .	\$9,332,516

**SECTION 7.020.**— To the Department of Economic Development

For the Missouri Technology Corporation,

For administration and for science and technology development, including, but not limited to, innovation centers, Missouri Manufacturing Extension Partnership, and Missouri Federal and State Technology Partnership Program. The Missouri Technology Corporation shall provide a semi-annual report no later than December 31, 2011 and July 31, 2012 to the Chairman of the Senate Appropriations Committee and the Chairman of the House Budget Committee containing, at a minimum, a description of each grant awarded, the amount of the grant, benchmarks established and obtained, jobs created, and other funds leveraged as a result of the grant. All funds appropriated to the Missouri Technology Corporation by the General Assembly shall be subject to the provisions of Section 196.1127, RSMo

From Missouri Technology Investment Fund. . . . .	\$1,700,000
From Federal Funds . . . . .	1E
From Private Contributions . . . . .	1E

For the Missouri Federal and State Technology Partnership Program

The Missouri Technology Corporation shall provide a semi-annual report no later than December 31, 2011 and July 31, 2012 to the Chairman

of the Senate Appropriations Committee and the Chairman of the House Budget Committee containing, at a minimum, a description of each grant awarded, the amount of the grant, benchmarks established and obtained, jobs created, and other funds leveraged as a result of the grant. All funds appropriated to the Missouri Technology Corporation by the General Assembly shall be subject to the provisions of Section 196.1127, RSMo

From Business Extension Service Team Fund. . . . .	400,000
Total. . . . .	\$2,100,002

**SECTION 7.025.**— Funds are to be transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Missouri Technology Investment Fund, for innovation centers, Missouri Manufacturing Extension Partnership, Missouri Technology Corporation, Missouri Federal and State Technology Partnership Program, and other science and technology development. All funds appropriated to the Missouri Technology Corporation by the General Assembly shall be subject to the provisions of Section 196.1127, RSMo

From General Revenue Fund. . . . .	\$1,700,000
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**SECTION 7.030.**— To the Department of Economic Development  
For the Division of Business and Community Services  
For Community Development Programs

From Federal Funds. . . . .	\$28,000,000E
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**SECTION 7.031.**— To the Department of Economic Development  
For the State Small Business Credit Initiative, including payment of  
administrative costs

From Federal Funds. . . . .	\$10,000,000E
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**SECTION 7.035.**— To the Department of Economic Development  
Funds are to be transferred out of the State Treasury, chargeable to the  
Business Extension Service Team Fund, to the General Revenue Fund

From Business Extension Service Team Fund. . . . .	\$416,069
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**SECTION 7.040.**— To the Department of Economic Development  
For the Division of Business and Community Services  
For the Missouri Main Street Program

From Missouri Main Street Program Fund. . . . .	\$43,204
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**SECTION 7.045.**— Funds are to be transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Missouri Main Street Program Fund

From General Revenue Fund. . . . .	\$42,614
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**SECTION 7.047.**— To the Department of Economic Development  
For the Division of Business and Community Services  
For the general administration of Community Development Corporations,  
job training, or retraining activities

From General Revenue Fund. . . . .	\$200,000
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**SECTION 7.050.**— To the Department of Economic Development  
For the Division of Business and Community Services  
For the Youth Opportunities and Violence Prevention Program  
From Youth Opportunities and Violence Prevention Fund. . . . . \$1E

**SECTION 7.060.**— To the Department of Economic Development  
For Missouri supplemental tax increment financing as provided in Section  
99.845, RSMo. This appropriation may be used for the following projects:  
Kansas City Midtown, Independence Santa Fe Trail Neighborhood,  
St. Louis City Convention Hotel, Cupples Station, Springfield Jordan  
Valley Park, Kansas City Bannister Mall/Three Trails, St. Louis Lambert  
Airport Eastern Perimeter, Old Post Office in Kansas City, 1200 Main  
Garage Project in Kansas City, Riverside Levee, Branson Landing,  
Eastern Jackson County Bass Pro, and Kansas City East Village Project.  
The presence of a project in this list is not an indication said project is nor  
shall be approved for tax increment financing. A listed project must have  
completed the application process and a certificate of approval must have  
been issued pursuant to Section 99.845 (10) RSMo, before a project may  
be disbursed funds subject to the appropriation  
From Missouri Supplemental Tax Increment Financing Fund. . . . . \$10,226,570

**SECTION 7.065.**— Funds are to be transferred out of the State Treasury,  
chargeable to the General Revenue Fund, to the Missouri Supplemental  
Tax Increment Financing Fund  
From General Revenue Fund. . . . . \$10,226,570

**SECTION 7.070.**— To the Department of Economic Development  
For the Missouri Downtown Economic Stimulus Act as provided in  
Sections 99.915 to 99.980, RSMo  
From State Supplemental Downtown Development Fund. . . . . \$1,240,450

**SECTION 7.075.**— To the Department of Economic Development  
For the Downtown Revitalization Preservation Program as provided in  
Sections 99.1080 to 99.1092, RSMo  
From Downtown Revitalization Preservation Fund. . . . . \$234,697

**SECTION 7.080.**— To the Department of Economic Development  
For the Missouri Rural Economic Stimulus Act as provided in  
Sections 99.1000 to 99.1060, RSMo  
From State Supplemental Rural Development Fund. . . . . \$1E

**SECTION 7.085.**— Funds are to be transferred out of the State Treasury,  
chargeable to the State Supplemental Downtown Development Fund,  
to the General Revenue Fund  
From State Supplemental Downtown Development Fund. . . . . \$1E

**SECTION 7.090.**— Funds are to be transferred out of the State Treasury,  
chargeable to the State Supplemental Rural Development Fund,  
to the General Revenue Fund  
From State Supplemental Rural Development Fund. . . . . \$1E

**SECTION 7.095.**— To the Department of Economic Development

For the Division of Business and Community Services

For the Missouri Community Service Commission

Personal Service

From General Revenue Fund. . . . . \$33,019

Personal Service. . . . . 188,163

Expense and Equipment . . . . . 2,793,562EFrom Federal Funds. . . . . 2,981,725

Total (Not to exceed 5.00 F.T.E.). . . . . \$3,014,744

**SECTION 7.100.**— To the Department of Economic Development

For the Missouri State Council on the Arts

Personal Service. . . . . \$293,187

Expense and Equipment. . . . . 635,014

From Federal Funds . . . . . 928,201

Personal Service. . . . . 462,100

Expense and Equipment. . . . . 8,558,414

From Missouri Arts Council Trust Fund. . . . . 9,020,514

For the Missouri Humanities Council

From Missouri Humanities Council Trust Fund. . . . . 250,000

Total (Not to exceed 15.00 F.T.E.). . . . . \$10,198,715

**SECTION 7.120.**— To the Department of Economic Development

For the Division of Workforce Development

For general administration of Workforce Development activities

Personal Service. . . . . \$21,397,398E

Expense and Equipment. . . . . 3,013,972E

From Federal Funds . . . . . 24,411,370

Personal Service. . . . . 371,707

Expense and Equipment. . . . . 81,389

From Missouri Job Development Fund . . . . . 453,096

For the Hero at Home Program

From Hero at Home Fund . . . . . 315,000

For the purpose of providing funding for specific persons with autism spectrum disorders through a contract with a Southeast Missouri not-for-profit organization concentrating on the maximization of giftedness, workforce transition skills, independent living skills and employment support services

From General Revenue Fund. . . . . 200,000

Total (Not to exceed 539.72 F.T.E.). . . . . \$25,379,466

**SECTION 7.125.**— Funds are to be transferred out of the State Treasury,

chargeable to Federal Funds, to the Hero at Home Fund

From Federal Funds. . . . . \$315,000

**SECTION 7.130.**— To the Department of Economic Development

For job training and related activities  
 From General Revenue Fund. . . . . \$1,873,994  
 From Federal Funds . . . . . 96,024,374

For administration of programs authorized and funded by the United States  
 Department of Labor, such as Trade Adjustment Assistance (TAA),  
 and provided that all funds shall be expended from discrete accounts  
 and that no monies shall be expended for funding administration of  
 these programs by the Division of Workforce Development  
 From Federal Funds. . . . . 7,000,000E  
 Total. . . . . \$104,898,368

**SECTION 7.135.**— To the Department of Economic Development  
 For funding new and expanding industry training programs and basic  
 industry retraining programs  
 From Missouri Job Development Fund. . . . . \$14,502,235E

**SECTION 7.140.**— Funds are to be transferred out of the State Treasury,  
 chargeable to the General Revenue Fund, to the Missouri Job  
 Development Fund  
 From General Revenue Fund. . . . . \$9,945,339

**SECTION 7.145.**— To the Department of Economic Development  
 For the Missouri Community College New Jobs Training Program  
 For funding training of workers by community college districts  
 From Missouri Community College Job Training Program Fund. . . . . \$16,000,000E

**SECTION 7.150.**— To the Department of Economic Development  
 For the Missouri Community College Job Retention Training Program  
 From Missouri Community College Job Retention Training Program Fund. . . . \$10,000,000

**SECTION 7.155.**— To the Department of Economic Development  
 For the Missouri Women's Council  
 Personal Service. . . . . \$55,167  
 Expense and Equipment. . . . . 16,502  
 From Federal Funds (Not to exceed 1.00 F.T.E.). . . . . \$71,669

**SECTION 7.160.**— To the Department of Economic Development  
 For the Division of Tourism to include coordination of advertising of  
 at least \$70,000 for the Missouri State Fair  
 Personal Service. . . . . \$1,614,386  
 Expense and Equipment. . . . . 12,293,346  
 From Division of Tourism Supplemental Revenue Fund . . . . . 13,907,732

Expense and Equipment  
 From Tourism Marketing Fund. . . . . 15,000  
 Total (Not to exceed 41.00 F.T.E.). . . . . \$13,922,732

**SECTION 7.165.**— Funds are to be transferred out of the State Treasury,  
 chargeable to the General Revenue Fund, to the Division of Tourism



Supplemental Revenue Fund  
 From General Revenue Fund. . . . . \$13,422,576

**SECTION 7.166.**— To the Department of Economic Development  
 For the Office of the Film Commission  
 Personal Service and/or Expense and Equipment  
 From General Revenue Fund (Not to exceed 2.00 F.T.E.).. . . . \$175,000

**SECTION 7.170.**— To the Department of Economic Development  
 For the Missouri Housing Development Commission  
 For general administration of affordable housing activities  
 For funding housing subsidy grants or loans  
 From Missouri Housing Trust Fund. . . . . \$2,225,000

**SECTION 7.175.**— To the Department of Economic Development  
 For Manufactured Housing  
     Personal Service. . . . . \$341,404  
     Expense and Equipment . . . . . 145,089  
 For Manufactured Housing programs.. . . . 7,935E  
 For refunds. . . . . 10,000E  
 From Manufactured Housing Fund . . . . . 504,428

For Manufactured Housing to pay consumer claims  
 From Manufactured Housing Consumer Recovery Fund.. . . . 192,000  
 Total (Not to exceed 8.00 F.T.E.). . . . . \$696,428

**SECTION 7.180.**— To the Department of Economic Development  
 Funds are to be transferred out of the State Treasury, chargeable to the  
     Manufactured Housing Fund, to the Manufactured Housing Consumer  
     Recovery Fund  
 From Manufactured Housing Fund. . . . . \$192,000

**SECTION 7.185.**— To the Department of Economic Development  
 For the Office of the Public Counsel  
     Personal Service and/or Expense and Equipment, provided that not  
     more than twenty-five percent (25%) flexibility is allowed between  
     personal service and expense and equipment  
 From Public Service Commission Fund (Not to exceed 12.00 F.T.E.). . . . . \$700,690

**SECTION 7.190.**— To the Department of Economic Development  
 For the Public Service Commission  
 For general administration of utility regulation activities  
     Personal Service and/or Expense and Equipment, provided that not  
     more than twenty-five percent (25%) flexibility is allowed between  
     personal service and expense and equipment. . . . . \$12,252,804  
 For refunds. . . . . 10,000E  
 From Public Service Commission Fund. . . . . 12,262,804

For the Deaf Relay Service and Equipment Distribution Program  
 From Deaf Relay Service and Equipment Distribution Program Fund. . . . . 2,500,000  
 Total (Not to exceed 194.00 F.T.E.).. . . . \$14,762,804

**SECTION 7.400.**— To the Department of Insurance, Financial Institutions  
and Professional Registration

Personal Service. . . . .	\$147,843
Expense and Equipment. . . . .	<u>42,157</u>
From Department of Insurance, Financial Institutions and Professional Registration Administrative Fund (Not to exceed 5.00 F.T.E.). . . . .	\$190,000

**SECTION 7.405.**— To the Department of Insurance, Financial Institutions  
and Professional Registration

Funds are to be transferred for administrative services to the Department  
of Insurance, Financial Institutions and Professional Registration  
Administrative Fund

From Division of Credit Unions Fund. . . . .	\$11,829E
From Division of Finance Fund. . . . .	73,314E
From Insurance Dedicated Fund. . . . .	1E
From Professional Registration Fees Fund . . . . .	<u>172,007E</u>
Total. . . . .	\$257,151

**SECTION 7.410.**— To the Department of Insurance, Financial Institutions  
and Professional Registration

Personal Service and/or Expense and Equipment From Federal Funds (Not to exceed 21.00 F.T.E.). . . . .	\$2,412,803
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**SECTION 7.415.**— To the Department of Insurance, Financial Institutions  
and Professional Registration

Funds are to be transferred out of federal funds, to the Insurance Dedicated  
Fund, for the purpose of administering federal grants

From Federal Funds. . . . .	\$137,077E
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**SECTION 7.420.**— To the Department of Insurance, Financial Institutions  
and Professional Registration

For Insurance Operations

Personal Service. . . . .	\$7,091,213
Expense and Equipment. . . . .	<u>1,955,711</u>
From Insurance Dedicated Fund. . . . .	9,046,924

For consumer restitution payments

From Consumer Restitution Fund. . . . .	<u>1E</u>
Total (Not to exceed 158.00 F.T.E.). . . . .	\$9,046,925

**SECTION 7.425.**— To the Department of Insurance, Financial Institutions  
and Professional Registration

For market conduct and financial examinations of insurance companies

Personal Service. . . . .	\$3,239,880
Expense and Equipment. . . . .	<u>801,776</u>
From Insurance Examiners Fund (Not to exceed 42.50 F.T.E.). . . . .	\$4,041,656

**SECTION 7.430.**— To the Department of Insurance, Financial Institutions  
and Professional Registration

For refunds

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From Insurance Examiners Fund. . . . .	\$1E
From Insurance Dedicated Fund. . . . .	<u>75,000E</u>
Total. . . . .	\$75,001

**SECTION 7.435.**— To the Department of Insurance, Financial Institutions  
and Professional Registration

For the purpose of funding programs providing counseling on health insurance  
coverage and benefits to Medicare beneficiaries

From Federal Funds. . . . .	\$700,000E
From Insurance Dedicated Fund. . . . .	<u>200,000</u>
Total. . . . .	\$900,000

**SECTION 7.440.**— To the Department of Insurance, Financial Institutions  
and Professional Registration

For the Division of Credit Unions

Personal Service. . . . .	\$1,126,071
Expense and Equipment. . . . .	<u>123,775</u>
From Division of Credit Unions Fund (Not to exceed 15.50 F.T.E.). . . . .	\$1,249,846

**SECTION 7.445.**— To the Department of Insurance, Financial Institutions  
and Professional Registration

For the Division of Finance

Personal Service. . . . .	\$7,027,358
Expense and Equipment . . . . .	977,804
For Out-of-State Examinations. . . . .	<u>50,000E</u>
From Division of Finance Fund (Not to exceed 118.15 F.T.E.). . . . .	\$8,055,162

**SECTION 7.450.**— Funds are to be transferred out of the Division of Savings  
and Loan Supervision Fund, to the Division of Finance Fund, for the  
purpose of supervising state chartered savings and loan associations

From Division of Savings and Loan Supervision Fund. . . . .	\$39,400E
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**SECTION 7.455.**— Funds are to be transferred out of the Residential Mortgage  
Licensing Fund, to the Division of Finance Fund, for the purpose of  
administering the Residential Mortgage Licensing Law

From Residential Mortgage Licensing Fund. . . . .	\$600,000E
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**SECTION 7.460.**— Funds are to be transferred out of the Division of Savings  
and Loan Supervision Fund, to the General Revenue Fund, in accordance  
with Section 369.324, RSMo

From Division of Savings and Loan Supervision Fund. . . . .	\$6,909E
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**SECTION 7.465.**— Funds are to be transferred out of the Division of Finance  
Fund, to the General Revenue Fund, in accordance with Section 361.170,  
RSMo

From Division of Finance Fund. . . . .	\$500,000E
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**SECTION 7.470.**— To the Department of Insurance, Financial Institutions  
and Professional Registration

For general administration of the Division of Professional Registration

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Personal Service. . . . .	\$3,334,640
Expense and Equipment . . . . .	1,056,552
For examination and other fees . . . . .	88,000E
For refunds.. . . .	<u>35,000E</u>
From Professional Registration Fees Fund (Not to exceed 87.50 F.T.E.). . . . .	\$4,514,192

**SECTION 7.475.**— To the Department of Insurance, Financial Institutions  
and Professional Registration

For the State Board of Accountancy

Personal Service. . . . .	\$278,953
Expense and Equipment. . . . .	<u>180,647</u>
From Board of Accountancy Fund (Not to exceed 7.00 F.T.E.). . . . .	\$459,600

**SECTION 7.480.**— To the Department of Insurance, Financial Institutions  
and Professional Registration

For the State Board of Architects, Professional Engineers, Land Surveyors,  
and Landscape Architects

Personal Service. . . . .	\$375,856
Expense and Equipment. . . . .	<u>331,587</u>
From Board of Architects, Professional Engineers, Land Surveyors, and Landscape Architects Fund (Not to exceed 10.00 F.T.E.). . . . .	\$707,443

**SECTION 7.485.**— To the Department of Insurance, Financial Institutions  
and Professional Registration

For the State Board of Chiropractic Examiners

Expense and Equipment . . . . .	
From Board of Chiropractic Examiners Fund. . . . .	\$149,567

**SECTION 7.490.**— To the Department of Insurance, Financial Institutions  
and Professional Registration

For the State Board of Cosmetology and Barber Examiners

Expense and Equipment. . . . .	\$291,273
For criminal history checks.. . . .	<u>1,000E</u>
From Board of Cosmetology and Barber Examiners Fund. . . . .	\$292,273

**SECTION 7.495.**— To the Department of Insurance, Financial Institutions  
and Professional Registration

For the Missouri Dental Board

Personal Service. . . . .	\$372,146
Expense and Equipment. . . . .	<u>262,863</u>
From Dental Board Fund (Not to exceed 8.50 F.T.E.). . . . .	\$635,009

**SECTION 7.500.**— To the Department of Insurance, Financial Institutions  
and Professional Registration

For the State Board of Embalmers and Funeral Directors

Expense and Equipment . . . . .	
From Board of Embalmers and Funeral Directors Fund. . . . .	\$209,781

**SECTION 7.505.**— To the Department of Insurance, Financial Institutions  
and Professional Registration

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For the State Board of Registration for the Healing Arts  
 Personal Service. . . . . \$1,722,115  
 Expense and Equipment. . . . . 759,494  
 From Board of Registration for Healing Arts Fund (Not to exceed 43.00 F.T.E.).. \$2,481,609

**SECTION 7.510.**— To the Department of Insurance, Financial Institutions  
 and Professional Registration

For the State Board of Nursing  
 Personal Service. . . . . \$1,185,738  
 Expense and Equipment. . . . . 602,496  
 From Board of Nursing Fund (Not to exceed 28.00 F.T.E.).. \$1,788,234

**SECTION 7.515.**— To the Department of Insurance, Financial Institutions  
 and Professional Registration

For the State Board of Optometry  
 Expense and Equipment  
 From Board of Optometry Fund. . . . . \$42,043

**SECTION 7.520.**— To the Department of Insurance, Financial Institutions  
 and Professional Registration

For the State Board of Pharmacy  
 Personal Service. . . . . \$940,068  
 Expense and Equipment . . . . . 672,948  
 For criminal history checks. . . . . 5,000E  
 From Board of Pharmacy Fund (Not to exceed 14.00 F.T.E.). . . . . \$1,618,016

**SECTION 7.525.**— To the Department of Insurance, Financial Institutions  
 and Professional Registration

For the State Board of Podiatric Medicine  
 Expense and Equipment  
 From Board of Podiatric Medicine Fund.. . . . \$20,669

**SECTION 7.530.**— To the Department of Insurance, Financial Institutions  
 and Professional Registration

For the Missouri Real Estate Commission  
 Personal Service. . . . . \$897,447  
 Expense and Equipment . . . . . 287,544  
 For criminal history checks. . . . . 30,000E  
 From Missouri Real Estate Commission Fund (Not to exceed 25.00 F.T.E.). . . . \$1,214,991

**SECTION 7.535.**— To the Department of Insurance, Financial Institutions  
 and Professional Registration

For the Missouri Veterinary Medical Board  
 Expense and Equipment. . . . . \$69,579  
 For payment of fees for testing services . . . . . 40,000E  
 From Veterinary Medical Board Fund. . . . . \$109,579

**SECTION 7.540.**— To the Department of Insurance, Financial Institutions  
 and Professional Registration

Funds are to be transferred, for administrative costs, to the General Revenue Fund

From Board of Accountancy Fund. . . . .	\$28,000E
From Board of Architects, Professional Engineers, Land Surveyors and Landscape Architects Fund . . . . .	122,100E
From Athletic Fund . . . . .	14,400E
From Board of Chiropractic Examiners Fund. . . . .	8,000E
From Licensed Social Workers Fund. . . . .	9,064E
From Committee of Professional Counselors Fund . . . . .	15,000E
From Dental Board Fund . . . . .	31,200E
From Dietitian Fund. . . . .	1,200E
From Board of Embalmers and Funeral Directors Fund . . . . .	85,000E
From Endowed Care Cemetery Audit Fund. . . . .	9,100E
From Board of Geologist Registration Fund. . . . .	7,200E
From Board of Registration for Healing Arts Fund . . . . .	190,000E
From Hearing Instrument Specialist Fund. . . . .	7,700E
From Interior Designer Council Fund. . . . .	1,200E
From Marital and Family Therapists' Fund . . . . .	2,200E
From Board of Nursing Fund . . . . .	135,000E
From Missouri Board of Occupational Therapy Fund . . . . .	8,960E
From Board of Optometry Fund . . . . .	13,408E
From Board of Pharmacy Fund. . . . .	119,000E
From Board of Podiatric Medicine Fund. . . . .	7,700E
From State Committee of Psychologists Fund . . . . .	26,000E
From Real Estate Appraisers Fund . . . . .	51,000E
From Respiratory Care Practitioners Fund . . . . .	6,250E
From State Committee of Interpreters Fund. . . . .	7,800E
From Missouri Real Estate Commission Fund. . . . .	150,000E
From Veterinary Medical Board Fund . . . . .	22,200E
From Board of Private Investigator Examiners Fund. . . . .	1E
From Tattoo Fund . . . . .	5,047E
From Acupuncturist Fund. . . . .	3,000E
From Massage Therapy Fund. . . . .	5,200E
From Athletic Agent Fund . . . . .	1E
From Board of Cosmetology and Barber Examiners Fund. . . . .	91,250E
Total. . . . .	\$1,183,181

**SECTION 7.545.**— To the Department of Insurance, Financial Institutions  
and Professional Registration

Funds are to be transferred, for payment of operating expenses, to the

Professional Registration Fees Fund	
From Board of Accountancy Fund. . . . .	\$133,938E
From Board of Architects, Professional Engineers, Land Surveyors, and Landscape Architects Fund . . . . .	278,472E
From Athletic Fund . . . . .	189,295E
From Board of Chiropractic Examiners Fund. . . . .	133,850E
From Licensed Social Workers Fund. . . . .	214,657E
From Committee of Professional Counselors Fund . . . . .	283,797E
From Dental Board Fund . . . . .	69,800E
From Dietitian Fund. . . . .	56,348E
From Board of Embalmers and Funeral Directors Fund . . . . .	363,579E
From Endowed Care Cemetery Audit Fund. . . . .	122,879E
From Board of Geologist Registration Fund. . . . .	71,215E

From Board of Registration for Healing Arts Fund . . . . .	430,439E
From Hearing Instrument Specialist Fund. . . . .	88,470E
From Interior Designer Council Fund. . . . .	42,037E
From Marital and Family Therapists' Fund . . . . .	17,211E
From Board of Nursing Fund . . . . .	1,104,260E
From Missouri Board of Occupational Therapy Fund . . . . .	138,152E
From Board of Optometry Fund . . . . .	79,961E
From Board of Pharmacy Fund. . . . .	274,379E
From Board of Podiatric Medicine Fund. . . . .	27,269E
From State Committee of Psychologists Fund . . . . .	348,058E
From Real Estate Appraisers Fund . . . . .	419,574E
From Respiratory Care Practitioners Fund . . . . .	137,692E
From State Committee of Interpreters Fund. . . . .	48,475E
From Missouri Real Estate Commission Fund. . . . .	540,206E
From Veterinary Medical Board Fund . . . . .	171,129E
From Tattoo Fund . . . . .	51,460E
From Acupuncturist Fund. . . . .	8,298E
From Massage Therapy Fund. . . . .	146,278E
From Athletic Agent Fund . . . . .	888E
From Board of Cosmetology and Barber Examiners Fund. . . . .	1,622,527E
From Board of Private Investigator Examiners Fund. . . . .	1E
Total. . . . .	\$7,614,594

**SECTION 7.550.**— Funds are to be transferred, for funding new licensing activity pursuant to Section 620.106, RSMo, to the Professional Registration Fees Fund

From any board funds. . . . . \$1E

**SECTION 7.555.**— Funds are to be transferred, for the reimbursement of funds loaned for new licensing activity pursuant to Section 620.106, RSMo, to the appropriate board fund

From Professional Registration Fees Fund. . . . . \$1E

**SECTION 7.800.**— To the Department of Labor and Industrial Relations For the Director and Staff

Personal Service. . . . .	\$1E
Expense and Equipment . . . . .	1,764,700E
From Unemployment Compensation Administration Fund . . . . .	1,764,701

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From Department of Labor and Industrial Relations Administrative Fund. . . . .	3,953,802
Total (Not to exceed 49.90 F.T.E.).. . . .	\$5,718,503

**SECTION 7.805.**— Funds are to be transferred, for payment of administrative costs, to the Department of Labor and Industrial Relations Administrative Fund

From General Revenue Fund. . . . .	\$259,042
From Federal Funds . . . . .	41,267E
From Unemployment Compensation Administration Fund . . . . .	3,869,920E
From Workers' Compensation Fund. . . . .	850,522E

From Special Employment Security Fund. . . . .	100,000
Total. . . . .	<u>\$5,120,751</u>

**SECTION 7.810.**— Funds are to be transferred, for payment of administrative costs charged by the Office of Administration, to the Department of Labor and Industrial Relations Administrative Fund

From General Revenue Fund. . . . .	\$134,703
From Federal Funds . . . . .	4,479,793
From Workers' Compensation Fund. . . . .	<u>1,030,877</u>
Total. . . . .	<u>\$5,645,373</u>

**SECTION 7.815.**— To the Department of Labor and Industrial Relations  
For the Labor and Industrial Relations Commission

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund. . . . .	\$9,853
Personal Service. . . . .	457,120
Expense and Equipment. . . . .	<u>71,484</u>
From Unemployment Compensation Administration Fund . . . . .	528,604
Personal Service. . . . .	388,785
Expense and Equipment. . . . .	<u>60,795</u>
From Workers' Compensation Fund. . . . .	<u>449,580</u>
Total (Not to exceed 14.00 F.T.E.). . . . .	<u>\$988,037</u>

**SECTION 7.820.**— To the Department of Labor and Industrial Relations  
For the Division of Labor Standards

For Administration	
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund. . . . .	\$790,853
Personal Service. . . . .	1E
Expense and Equipment. . . . .	<u>32,670</u>
From Federal Funds . . . . .	32,671
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From Workers' Compensation Fund. . . . .	309,965
Expense and Equipment	
From Child Labor Enforcement Fund. . . . .	<u>185,000</u>
Total (Not to exceed 20.00 F.T.E.). . . . .	<u>\$1,318,489</u>

**SECTION 7.825.**— To the Department of Labor and Industrial Relations  
For the Division of Labor Standards

For safety and health programs	
Personal Service. . . . .	\$679,471E



Expense and Equipment. . . . .	<u>290,893E</u>
From Federal Funds . . . . .	970,364

Personal Service and/or Expense and Equipment, provided that not more than fifty percent (50%) flexibility is allowed between personal service and expense and equipment	
From Workers' Compensation Fund. . . . .	<u>68,636</u>
Total (Not to exceed 16.00 F.T.E.).. . . .	<u>\$1,039,000</u>

**SECTION 7.830.**— To the Department of Labor and Industrial Relations  
For the Division of Labor Standards

For mine safety and health training programs	
Personal Service. . . . .	\$176,827E
Expense and Equipment . . . . .	<u>165,081E</u>
From Federal Funds . . . . .	341,908

Personal Service and/or Expense and Equipment	
From Workers' Compensation Fund. . . . .	<u>54,358</u>
Total (Not to exceed 5.00 F.T.E.). . . . .	<u>\$396,266</u>

**SECTION 7.835.**— To the Department of Labor and Industrial Relations  
For the State Board of Mediation

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund (Not to exceed 2.00 F.T.E.).. . . .	\$117,833

**SECTION 7.840.**— To the Department of Labor and Industrial Relations  
For the Division of Workers' Compensation

For the purpose of funding Administration	
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment. . . . .	\$9,026,363
Funds are to be transferred from the Workers' Compensation Fund pursuant to Section 173.258, RSMo to the Kids' Chance Scholarship Fund. . . . .	<u>50,000</u>
From Workers' Compensation Fund. . . . .	9,076,363

Expense and Equipment	
From Tort Victims Compensation Fund. . . . .	<u>5,000</u>
Total (Not to exceed 149.25 F.T.E.).. . . .	<u>\$9,081,363</u>

**SECTION 7.845.**— For refunds for overpayment or erroneous payment of any  
tax or any payment credited to the Workers' Compensation Fund

From Workers' Compensation Fund . . . . .	\$50,000E
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**SECTION 7.850.**— To the Department of Labor and Industrial Relations  
For the Division of Workers' Compensation

For payment of special claims	
From Workers' Compensation - Second Injury Fund. . . . .	\$47,359,511E

**SECTION 7.855.**— To the Department of Labor and Industrial Relations  
For the Division of Workers' Compensation

For refunds for overpayment of any tax or any payment credited to the  
Workers' Compensation - Second Injury Fund

From Workers' Compensation - Second Injury Fund. . . . . \$250,000E

**SECTION 7.860.**— To the Department of Labor and Industrial Relations

For the Line of Duty Compensation Program as provided in Section 287.243, RSMo

From Line of Duty Compensation Fund. . . . . \$1E

**SECTION 7.865.**— Funds are to be transferred out of the State Treasury,  
chargeable to the General Revenue Fund, to the Line of Duty  
Compensation Fund

From General Revenue Fund. . . . . \$1E

**SECTION 7.870.**— To the Department of Labor and Industrial Relations  
For the Division of Workers' Compensation

For payments of claims to tort victims

From Tort Victims Compensation Fund. . . . . \$100,000E

**SECTION 7.875.**— Funds are to be transferred pursuant to Section 537.675,  
RSMo, to the Basic Civil Legal Services Fund

From Tort Victims Compensation Fund. . . . . \$50,000E

**SECTION 7.880.**— To the Department of Labor and Industrial Relations  
For the Division of Employment Security

Personal Service. . . . . \$22,761,140E

Expense and Equipment. . . . . 5,342,111E

From Unemployment Compensation Administration Fund .. . . . 28,103,251

Personal Service

From Unemployment Automation Fund. . . . . 200,000

Total (Not to exceed 521.00 F.T.E.). . . . . \$28,303,251

**SECTION 7.885.**— To the Department of Labor and Industrial Relations  
For the Division of Employment Security

For administration of programs authorized and funded by the United States

Department of Labor, such as Disaster Unemployment Assistance (DUA),  
and provided that all funds shall be expended from discrete accounts  
and that no monies shall be expended for funding administration  
of these programs by the Division of Employment Security

From Unemployment Compensation Administration Fund. . . . . \$7,000,000E

**SECTION 7.890.**— To the Department of Labor and Industrial Relations  
For the Division of Employment Security

Personal Service. . . . . \$504,509

Expense and Equipment .. . . . 1,885,358E

For interest payments.. . . . 1E

From Special Employment Security Fund (Not to exceed 14.21 F.T.E.). . . . . \$2,389,868

**SECTION 7.895.**— To the Department of Labor and Industrial Relations

For the Division of Employment Security

For the War on Terror Unemployment Compensation Program

Expense and Equipment. . . . .	\$45,000
For payment of benefits. . . . .	<u>45,000E</u>
From War on Terror Unemployment Compensation Fund. . . . .	\$90,000

**SECTION 7.900.**— To the Department of Labor and Industrial Relations

For the Division of Employment Security

From Special Employment Security - Bond Proceeds Fund. . . . . \$1E

**SECTION 7.905.**— To the Department of Labor and Industrial Relations

For the Division of Employment Security

For the payment of refunds set-off against debts as required by Section

143.786, RSMo

From Debt Offset Escrow Fund. . . . . \$3,250,000E

**SECTION 7.910.**— To the Department of Labor and Industrial Relations

For the Missouri Commission on Human Rights

Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment

From General Revenue Fund. . . . . \$510,051

Personal Service. . . . . 895,097E

Expense and Equipment. . . . . 161,866EFrom Human Rights Commission Fund. . . . . 1,056,963Total (Not to exceed 32.70 F.T.E.).. . . . \$1,567,014**Department of Economic Development Totals**

General Revenue Fund. . . . . \$39,690,102

Federal Funds. . . . . 174,105,100

Other Funds. . . . . 51,028,105Total. . . . . \$264,823,307**Department of Insurance, Financial Institutions and Professional Registration****Totals**

Federal Funds. . . . . \$3,112,803

Other Funds. . . . . 36,991,595Total. . . . . \$40,104,398**Department of Labor and Industrial Relations Totals**

General Revenue Fund. . . . . \$1,822,336

Federal Funds. . . . . 48,189,442

Other Funds. . . . . 62,269,681Total. . . . . \$112,281,459

Approved June 10, 2011

## HB 8 [CCS SCS HCS HB 8]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

### **APPROPRIATIONS: DEPARTMENT OF PUBLIC SAFETY.**

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Public Safety and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2011 and ending June 30, 2012.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated, for the period beginning July 1, 2011 and ending June 30, 2012, as follows:

#### **SECTION 8.005.**— To the Department of Public Safety

For the Office of the Director

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund. . . . .	\$833,638
From Federal Funds . . . . .	39,477,899E
From Services to Victims Fund. . . . .	38,527E
From Crime Victims' Compensation Fund. . . . .	1,929,284E

Expense and Equipment	
From Missouri Crime Prevention Information and Programming Fund. . . . .	50,000E
From Antiterrorism Fund. . . . .	5,000E
Total (Not to exceed 48.00 F.T.E.). . . . .	\$42,334,348

#### **SECTION 8.007.**— To the Department of Public Safety

For the Office of the Director

For Community Intervention Program for Youth and Families in Kansas City	
From General Revenue Fund. . . . .	\$178,000

#### **SECTION 8.010.**— To the Department of Public Safety

For the Office of the Director

For the Juvenile Justice Delinquency Prevention Program	
From Federal Funds. . . . .	\$1,032,450E

**SECTION 8.015.**— To the Department of Public Safety  
 For the Office of the Director  
 For the Juvenile Accountability Incentive Block Grant Program  
 From Federal Funds. . . . . \$1,013,625E

**SECTION 8.020.**— To the Department of Public Safety  
 For the Office of the Director  
 For the Narcotics Control Assistance Program and multi-jurisdictional  
     task forces  
 From Federal Funds. . . . . \$7,000,000E

**SECTION 8.025.**— To the Department of Public Safety  
 For the Office of the Director  
 For the Program 1122  
 For the purchase of counter-drug equipment through federal procurement  
     channels by state and local law enforcement  
 From Program 1122 Fund. . . . . \$500,000E

**SECTION 8.030.**— To the Department of Public Safety  
 For the Office of the Director  
 For the Missouri Sheriff Methamphetamine Relief Task Force  
 For the purpose of supplementing deputy sheriffs' salary and related employment  
     benefits pursuant to Section 57.278, RSMo  
 From Deputy Sheriff Salary Supplementation Fund. . . . . \$6,400,000

**SECTION 8.035.**— To the Department of Public Safety  
 For the Office of the Director  
 For the Services to Victims Program provided, up to five percent (5%) of each  
     grant award be allowed for the administrative expenses of each grantee  
 From Services to Victims Fund. . . . . \$4,950,000E

For counseling and other support services for crime victims  
 From Crime Victims' Compensation Fund. . . . . 50,000  
 Total. . . . . \$5,000,000

**SECTION 8.040.**— To the Department of Public Safety  
 For the Office of the Director  
 For the Victims of Crime Program  
 From Federal Funds. . . . . \$7,500,000E

**SECTION 8.045.**— To the Department of Public Safety  
 For the Office of the Director  
 For the Violence Against Women Program  
 From Federal Funds. . . . . \$2,499,500E

**SECTION 8.050.**— To the Department of Public Safety  
 For the Office of the Director  
 For the Crime Victims' Compensation Program  
 From General Revenue Fund. . . . . \$1,600,000  
 From Federal Funds . . . . . 2,212,671E

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From Crime Victims' Compensation Fund. . . . .	6,987,329E
Total. . . . .	\$10,800,000

**SECTION 8.055.**— To the Department of Public Safety  
For the National Forensic Sciences Improvement Act Program  
From Federal Funds. . . . . \$197,287E

**SECTION 8.060.**— To the Department of Public Safety  
For the State Forensic Laboratory Program  
From State Forensic Laboratory Fund. . . . . \$300,000E

**SECTION 8.065.**— To the Department of Public Safety  
For the Office of the Director  
For the Residential Substance Abuse Treatment Program  
From Federal Funds. . . . . \$250,000E

**SECTION 8.070.**— To the Department of Public Safety  
For the Office of the Director  
For peace officer training  
From Peace Officer Standards and Training Commission Fund.. . . . \$1,400,000E

**SECTION 8.075.**— To the Department of Public Safety  
For the Missouri Public Safety Officer Medal of Valor Act  
From General Revenue Fund. . . . . \$508

**SECTION 8.080.**— To the Department of Public Safety  
For the Capitol Police  
Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment  
From General Revenue Fund (Not to exceed 32.00 F.T.E.). . . . . \$1,315,587

**SECTION 8.085.**— To the Department of Public Safety  
For the State Highway Patrol  
For Administration  
Personal Service. . . . . \$15,237  
Expense and Equipment. . . . . 3,395  
From General Revenue Fund. . . . . 18,632

For the High-Intensity Drug Trafficking Area Program  
From Federal Funds . . . . . 1,500,000E

Personal Service. . . . .	5,621,583
Expense and Equipment. . . . .	430,812
From State Highways and Transportation Department Fund . . . . .	6,052,395

Personal Service	
From Criminal Record System Fund . . . . .	40,110

Personal Service. . . . .	32,703
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Expense and Equipment. . . . .	4,865
From Gaming Commission Fund. . . . .	37,568
Total (Not to exceed 109.00 F.T.E.). . . . .	\$7,648,705

**SECTION 8.090.**— To the Department of Public Safety

For the State Highway Patrol

For fringe benefits, including retirement contributions for members

of the Missouri Department of Transportation and Highway Patrol

Employees' Retirement System, and insurance premiums

Personal Service. . . . .	\$7,040,524E
Expense and Equipment. . . . .	798,841E
From General Revenue Fund. . . . .	7,839,365

Personal Service. . . . .	2,082,898E
Expense and Equipment. . . . .	115,037E
From Federal Funds . . . . .	2,197,935

Personal Service. . . . .	157,981E
Expense and Equipment. . . . .	14,028E
From Gaming Commission Fund. . . . .	172,009

Personal Service. . . . .	67,367,174E
Expense and Equipment. . . . .	6,288,232E
From State Highways and Transportation Department Fund . . . . .	73,655,406

Personal Service. . . . .	2,802,607E
Expense and Equipment. . . . .	257,285E
From Criminal Record System Fund . . . . .	3,059,892

Personal Service. . . . .	69,187E
Expense and Equipment. . . . .	6,427E
From Highway Patrol Academy Fund . . . . .	75,614

Personal Service. . . . .	3,749E
Expense and Equipment. . . . .	617E
From Highway Patrol's Motor Vehicle and Aircraft Revolving Fund. . . . .	4,366

Personal Service. . . . .	44,535E
Expense and Equipment. . . . .	6,026E
From DNA Profiling Analysis Fund . . . . .	50,561

Personal Service. . . . .	46,661E
Expense and Equipment. . . . .	4,993E
From Highway Patrol Traffic Records Fund . . . . .	51,654

Personal Service. . . . .	1E
Expense and Equipment. . . . .	1E
From Missouri State Water Patrol Fund. . . . .	2
Total. . . . .	\$87,106,804

**SECTION 8.095.**— To the Department of Public Safety

For the State Highway Patrol

For the Enforcement Program

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. . . . . \$8,622,082

From State Highways and Transportation Department Fund . . . . . 67,394,589

For receiving and expending donations and federal funds provided that the

General Assembly shall be notified of the source of any new funds and the purpose for which they shall be expended, in writing, prior to the expenditure of said funds

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From Federal Funds . . . . . 11,225,248E

Expense and Equipment

All expenditures must be in compliance with the United States Department of Justice Equitable Sharing Program guidelines

From Federal Drug Seizure Fund . . . . . 1,200,373

Personal Service

From Criminal Record System Fund . . . . . 100,455

Expense and Equipment

From Gaming Commission Fund. . . . . 296,740

Personal Service. . . . . 7,657

Expense and Equipment. . . . . 170,000

From Highway Patrol's Motor Vehicle and Aircraft Revolving Fund. . . . . 177,657

For a statewide interoperable communication system

From State Highways and Transportation Department Fund . . . . . 25,601,052

Expense and Equipment

From Highway Patrol Traffic Records Fund. . . . . 264,000

Total (Not to exceed 1,271.50 F.T.E.). . . . . \$114,882,196

**SECTION 8.100.**— To the Department of Public Safety

For the State Highway Patrol

For the Water Patrol Division

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. . . . . \$4,585,298

Personal Service. . . . . 555,725

Expense and Equipment . . . . . 2,296,825E

From Federal Funds . . . . . 2,852,550



Expense and Equipment  
 All expenditures must be in compliance with the United States Department  
 of Justice Equitable Sharing Program guidelines  
 From Federal Drug Seizure Fund . . . . . 20,000

Personal Service. . . . . 1,665,244  
 Expense and Equipment. . . . . 600,000  
 From Missouri State Water Patrol Fund. . . . . 2,265,244  
 Total (Not to exceed 111.00 F.T.E.) . . . . . \$9,723,092

**SECTION 8.105.**— To the Department of Public Safety

For the State Highway Patrol

For gasoline expenses for State Highway Patrol vehicles, including aircraft  
 and Gaming Commission vehicles

Expense and Equipment  
 From General Revenue Fund. . . . . \$338,678  
 From Gaming Commission Fund. . . . . 449,923  
 From State Highways and Transportation Department Fund. . . . . 3,440,815  
 Total. . . . . \$4,229,416

**SECTION 8.110.**— To the Department of Public Safety

For the State Highway Patrol

For purchase of vehicles and aircraft for the State Highway Patrol  
 and the Gaming Commission

Expense and Equipment  
 From General Revenue Fund. . . . . \$24,664  
 From Federal Drug Seizure Fund . . . . . 375,000  
 From State Highways and Transportation Department Fund . . . . . 6,209,793  
 From Highway Patrol's Motor Vehicle and Aircraft Revolving Fund. . . . . 6,267,240  
 From Gaming Commission Fund. . . . . 514,541  
 Total. . . . . \$13,391,238

**SECTION 8.115.**— To the Department of Public Safety

For the State Highway Patrol

For Crime Labs

Personal Service and/or Expense and Equipment, provided that not  
 more than twenty-five percent (25%) flexibility is allowed between  
 personal service and expense and equipment  
 From General Revenue Fund. . . . . \$2,378,632  
 From State Highways and Transportation Department Fund . . . . . 4,512,008  
 From DNA Profiling Analysis Fund . . . . . 1,538,849

Personal Service . . . . . 222,260  
 Expense and Equipment . . . . . 636,223E  
 For grants to St. Louis City and St. Louis County Forensic DNA Labs. . . . . 100,000E  
 From Federal Funds . . . . . 958,483

Personal Service . . . . . 101,055  
 Expense and Equipment. . . . . 3,600  
 From Criminal Record System Fund . . . . . 104,655

Expense and Equipment	
From State Forensic Laboratory Fund. . . . .	<u>219,125E</u>
Total (Not to exceed 104.00 F.T.E.). . . . .	\$9,711,752

**SECTION 8.120.**— To the Department of Public Safety

For the State Highway Patrol

For the Law Enforcement Academy

Expense and Equipment	
From Federal Funds. . . . .	\$59,655

Personal Service . . . . .	163,329
Expense and Equipment. . . . .	<u>82,298</u>
From Gaming Commission Fund. . . . .	245,627

Personal Service . . . . .	1,231,932
Expense and Equipment. . . . .	<u>76,872</u>
From State Highways and Transportation Department Fund . . . . .	1,308,804

Personal Service . . . . .	96,055
Expense and Equipment. . . . .	<u>624,914</u>
From Highway Patrol Academy Fund. . . . .	<u>720,969</u>
Total (Not to exceed 34.00 F.T.E.). . . . .	\$2,335,055

**SECTION 8.125.**— To the Department of Public Safety

For the State Highway Patrol

For Vehicle and Driver Safety

Expense and Equipment	
From Federal Funds. . . . .	\$600,000E

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From State Highways and Transportation Department Fund . . . . .	11,454,459

Expense and Equipment	
From Highway Patrol Inspection Fund. . . . .	<u>90,000E</u>
Total (Not to exceed 300.00 F.T.E.). . . . .	\$12,144,459

**SECTION 8.130.**— To the Department of Public Safety

For the State Highway Patrol

For refunding unused motor vehicle inspection stickers

From State Highways and Transportation Department Fund. . . . .	\$40,000E
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**SECTION 8.135.**— To the Department of Public Safety

For the State Highway Patrol

For Technical Services

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund. . . . .	\$392,620

Personal Service. . . . .	206,227
Expense and Equipment . . . . .	<u>4,044,469E</u>
From Federal Funds . . . . .	4,250,696

Personal Service. . . . .	12,837,706
Expense and Equipment. . . . .	<u>12,355,215</u>
From State Highways and Transportation Department Fund . . . . .	25,192,921

Personal Service. . . . .	3,714,225
Expense and Equipment . . . . .	4,072,575
For National Criminal Record Reviews. . . . .	<u>2,000,000E</u>
From Criminal Record System Fund . . . . .	9,786,800

Personal Service	
From Gaming Commission Fund. . . . .	20,502
From Highway Patrol Traffic Records Fund . . . . .	74,555

Expense and Equipment	
From Criminal Justice Network and Technology Revolving Fund. . . . .	<u>1,500,000E</u>
Total (Not to exceed 374.00 F.T.E.) . . . . .	\$41,218,094

**SECTION 8.140.**— To the Department of Public Safety

For the State Highway Patrol

For the recoupment, receipt, and disbursement of funds for equipment  
replacement, and expenses

Expense and Equipment	
From Highway Patrol Expense Fund. . . . .	\$65,000E

**SECTION 8.145.**— Funds are to be transferred out of the State Treasury,  
chargeable to the Highway Patrol Inspection Fund, to the State Road Fund

From Highway Patrol Inspection Fund. . . . .	\$1E
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**SECTION 8.150.**— To the Department of Public Safety

For the Division of Alcohol and Tobacco Control

Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment

From General Revenue Fund. . . . .	\$934,086
From Federal Funds . . . . .	140,000E
From Healthy Families Trust Fund. . . . .	<u>144,760</u>
Total (Not to exceed 21.00 F.T.E.) . . . . .	\$1,218,846

**SECTION 8.155.**— To the Department of Public Safety

For the Division of Alcohol and Tobacco Control

For refunds for unused liquor and beer licenses and for liquor and beer  
stamps not used and canceled

From General Revenue Fund. . . . .	\$18,000E
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**SECTION 8.160.**— To the Department of Public Safety

For the Division of Fire Safety

Personal Service and/or Expense and Equipment, provided that not

more than twenty-five percent (25%) flexibility is allowed between  
 personal service and expense and equipment

From General Revenue Fund. . . . .	\$2,189,700
From Elevator Safety Fund. . . . .	395,512
From Boiler and Pressure Vessels Safety Fund . . . . .	370,612
From Missouri Explosives Safety Act Administration Fund. . . . .	120,328

Expense and Equipment

From Federal Funds. . . . .	1E
Total (Not to exceed 68.92 F.T.E.). . . . .	\$3,076,153

**SECTION 8.165.**— To the Department of Public Safety

For the Division of Fire Safety

For the Fire Safe Cigarette Program

Personal Service and/or Expense and Equipment, provided that not  
 more than twenty-five percent (25%) flexibility is allowed between  
 personal service and expense and equipment

From Cigarette Fire Safety and Firefighter Protection Act Fund. . . . .	\$33,541
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**SECTION 8.170.**— To the Department of Public Safety

For the Division of Fire Safety

For firefighter training contracted services

Expense and Equipment

From General Revenue Fund. . . . .	\$200,000
From Chemical Emergency Preparedness Fund. . . . .	100,000
From Fire Education Fund . . . . .	150,000E
Total. . . . .	\$450,000

**SECTION 8.175.**— To the Department of Public Safety

For the Missouri Veterans' Commission

For Administration and Service to Veterans

Personal Service and/or Expense and Equipment, provided that not  
 more than twenty-five percent (25%) flexibility is allowed between  
 personal service and expense and equipment

From General Revenue Fund. . . . .	\$2,304,501
From Missouri Veterans' Homes Fund . . . . .	642,464
From Veterans' Commission Capital Improvement Trust Fund . . . . .	2,452,724
From Federal and Other Funds . . . . .	1E

Expense and Equipment

From Veterans Trust Fund. . . . .	24,800
Total (Not to exceed 114.46 F.T.E.). . . . .	\$5,424,490

**SECTION 8.180.**— To the Department of Public Safety

For the Missouri Veterans' Commission

For Veterans' Service Officer Program

From Veterans' Commission Capital Improvement Trust Fund. . . . .	\$1,600,000
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**SECTION 8.185.**— To the Department of Public Safety

For the Missouri Veterans' Commission

For Missouri Veterans' Homes

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. . . . .	\$16,364,184
From Missouri Veterans' Homes Fund . . . . .	52,851,834

Expense and Equipment

From Veterans Trust Fund . . . . .	52,500
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Personal Service

From Veterans' Commission Capital Improvement Trust Fund . . . . .	27,804
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For refunds to residents of Missouri veterans' homes from the U.S. Veterans Administration

From Missouri Veterans' Homes Fund . . . . .	1,274,400E
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For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund. . . . .	3,961
From Missouri Veterans' Homes Fund. . . . .	<u>2,423,654</u>
Total (Not to exceed 1,639.48 F.T.E.). . . . .	\$72,998,337

**SECTION 8.190.**— Funds are to be transferred out of the State Treasury, chargeable to the Veterans' Commission Capital Improvement Trust Fund, to the Missouri Veterans' Homes Fund

From Veterans' Commission Capital Improvement Trust Fund. . . . .	\$1,500,000E
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**SECTION 8.195.**— To the Department of Public Safety

For the Gaming Commission

For the Divisions of Gaming and Bingo

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

Personal Service. . . . .	\$13,858,412
Expense and Equipment. . . . .	<u>1,914,597</u>
From Gaming Commission Fund. . . . .	15,773,009

Expense and Equipment

From Compulsive Gamblers Fund. . . . .	<u>60,000</u>
Total (Not to exceed 230.00 F.T.E.). . . . .	\$15,833,009

**SECTION 8.200.**— To the Department of Public Safety

For the Gaming Commission

For fringe benefits, including retirement contributions for members of the Missouri Department of Transportation and Highway Patrol Employees' Retirement System, and insurance premiums for State Highway Patrol employees assigned to work under the direction of the Gaming Commission

Personal Service. . . . .	\$4,809,328E
Expense and Equipment. . . . .	267,317E
From Gaming Commission Fund. . . . .	\$5,076,645

**SECTION 8.205.**— To the Department of Public Safety

For the Gaming Commission

For refunding any overpayment or erroneous payment of any amount that  
is credited to the Gaming Commission Fund

From Gaming Commission Fund. . . . . \$15,000E

**SECTION 8.210.**— To the Department of Public Safety

For the Gaming Commission

For refunding any overpayment or erroneous payment of any amount  
received for bingo fees

From Bingo Proceeds for Education Fund. . . . . \$5,000E

**SECTION 8.215.**— To the Department of Public Safety

For the Gaming Commission

For breeder incentive payments

From Missouri Breeders Fund. . . . . \$5,000E

**SECTION 8.220.**— Funds are to be transferred out of the State Treasury,  
chargeable to the Gaming Commission Fund, to the Veterans'  
Commission Capital Improvement Trust Fund

From Gaming Commission Fund. . . . . \$6,000,000E

**SECTION 8.225.**— Funds are to be transferred out of the State Treasury,  
chargeable to the Gaming Commission Fund, to the Missouri National  
Guard Trust Fund

From Gaming Commission Fund. . . . . \$4,000,000E

**SECTION 8.230.**— Funds are to be transferred out of the State Treasury,  
chargeable to the Gaming Commission Fund, to the Access Missouri  
Financial Assistance Fund

From Gaming Commission Fund. . . . . \$5,000,000E

**SECTION 8.235.**— Funds are to be transferred out of the State Treasury,  
chargeable to the Gaming Commission Fund, to the Early Childhood  
Development, Education and Care Fund

From Gaming Commission Fund. . . . . \$30,320,000E

**SECTION 8.240.**— Funds are to be transferred out of the State Treasury,  
chargeable to the Gaming Commission Fund, to the Compulsive  
Gamblers Fund

From Gaming Commission Fund. . . . . \$489,850E

**SECTION 8.245.**— To the Adjutant General

For Missouri Military Forces Administration

Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between

personal service and expense and equipment  
 From General Revenue Fund. . . . . \$1,091,080

Expense and Equipment  
 All expenditures must be in compliance with the United States  
 Department of Justice Equitable Sharing Program guidelines  
 From Federal Drug Seizure Fund. . . . . 21,000E  
 Total (Not to exceed 29.48 F.T.E.).. . . . \$1,112,080

**SECTION 8.250.**— To the Adjutant General

For activities in support of the Missouri National Guard, including the  
 National Guard Tuition Assistance Program and the Military Honors  
 Program  
 Personal Service and/or Expense and Equipment, provided that not  
 more than twenty-five percent (25%) flexibility is allowed between  
 personal service and expense and equipment  
 From General Revenue Fund. . . . . \$807,160  
 From Missouri National Guard Trust Fund. . . . . 5,441,929  
 Total (Not to exceed 42.40 F.T.E.).. . . . \$6,249,089

**SECTION 8.255.**— To the Adjutant General

For the Veterans Recognition Program  
 Personal Service and/or Expense and Equipment, provided that not  
 more than twenty-five percent (25%) flexibility is allowed between  
 personal service and expense and equipment  
 From Veterans' Commission Capital Improvement Trust Fund (Not to  
 exceed 3.00 F.T.E.).. . . . \$628,021

**SECTION 8.260.**— To the Adjutant General

For Missouri Military Forces Field Support  
 Personal Service and/or Expense and Equipment, provided that not  
 more than twenty-five percent (25%) flexibility is allowed between  
 personal service and expense and equipment  
 From General Revenue Fund. . . . . \$851,556  
  
 Personal Service. . . . . 95,167E  
 Expense and Equipment. . . . . 73,063E  
 From Federal Funds. . . . . 168,230  
 Total (Not to exceed 40.37 F.T.E.).. . . . \$1,019,786

**SECTION 8.265.**— To the Adjutant General

For operational expenses at armories from armory rental fees  
 Expense and Equipment  
 From Adjutant General Revolving Fund. . . . . \$25,000E

**SECTION 8.270.**— To the Adjutant General

For the Missouri Military Family Relief Program  
 Expense and Equipment. . . . . \$10,500  
 For grants to family members of the National Guard and reservists who are in  
 financial need. . . . . 189,500E  
 From Missouri Military Family Relief Fund. . . . . \$200,000

**SECTION 8.275.**— To the Adjutant General

For training site operating costs

Expense and Equipment

From Missouri National Guard Training Site Fund. . . . . \$244,800E

**SECTION 8.280.**— To the Adjutant General

For Military Forces Contract Services

Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment

From General Revenue Fund. . . . . \$435,733

From Federal Funds . . . . . 18,905,307E

From Missouri Youth Challenge Foundation Fund. . . . . 658,249

For refund of federal overpayments to the state for the Contract Services Program

From Federal Funds . . . . . 30,000E

Personal Service

From Missouri National Guard Training Site Fund. . . . . 19,032

Expense and Equipment

From Missouri National Guard Trust Fund. . . . . 231,249

Total (Not to exceed 322.80 F.T.E.). . . . . \$20,279,570

**SECTION 8.285.**— To the Adjutant General

For the Office of Air Search and Rescue

Expense and Equipment

From General Revenue Fund. . . . . \$28,788

**SECTION 8.290.**— To the Department of Public Safety

For the State Emergency Management Agency

For Administration and Emergency Operations

Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment

From General Revenue Fund. . . . . \$1,359,336

Personal Service. . . . . 1,198,255

Expense and Equipment. . . . . 849,376

From Federal Funds . . . . . 2,047,631

Personal Service. . . . . 155,790

Expense and Equipment. . . . . 86,892E

From Chemical Emergency Preparedness Fund. . . . . 242,682

Total (Not to exceed 65.00 F.T.E.). . . . . \$3,649,649

**SECTION 8.295.**— To the Department of Public Safety

For the State Emergency Management Agency

For the Community Right-to-Know Act

From Chemical Emergency Preparedness Fund. . . . . \$650,000E



For distribution of funds to local emergency planning commissions to implement  
the federal Hazardous Materials Transportation Uniform Safety Act of 1990  
From Federal Funds . . . . . 346,890E  
Total. . . . . \$996,890

**SECTION 8.300.**— To the Department of Public Safety

For the State Emergency Management Agency  
For all allotments, grants, and contributions from federal and other sources  
that are deposited in the State Treasury for administrative and training  
expenses of the State Emergency Management Agency and for  
first responder training programs  
From Federal Funds. . . . . \$6,946,000E

For all allotments, grants, and contributions from federal and other sources  
that are deposited in the State Treasury for the use of the State Emergency  
Management Agency for alleviating distress from disasters  
From Missouri Disaster Fund. . . . . 505,167E

To provide matching funds for federal grants and for emergency assistance  
expenses of the State Emergency Management Agency as provided in  
Section 44.032, RSMo  
From General Revenue Fund. . . . . 999,999E

To provide for expenses of any state agency responding during a declared  
emergency at the direction of the governor provided the services furnish  
immediate aid and relief  
From General Revenue Fund. . . . . 1E  
Total. . . . . \$8,451,167

**Bill Totals**

General Revenue Fund. . . . . \$55,697,789  
Federal Funds. . . . . 115,503,598  
Other Funds. . . . . 371,272,190  
Total. . . . . \$542,473,577

Approved June 10, 2011

**HB 9 [CCS SCS HCS HB 9]**

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**APPROPRIATIONS: DEPARTMENT OF CORRECTIONS.**

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Corrections and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the period beginning July 1, 2011 and ending June 30, 2012; provided that no funds from these sections shall be expended for the purpose of costs associated with travel or staffing for the offices of

the Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, or Attorney General.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2011 and ending June 30, 2012, as follows:

**SECTION 9.005.**— To the Department of Corrections

For the Office of the Director

Personal Service and/or Expense and Equipment, provided that not more than thirty-five percent (35%) flexibility is allowed between personal service and expense and equipment and not more than thirty-five percent (35%) flexibility is allowed between divisions

From General Revenue Fund. . . . . \$4,323,402

For the purpose of funding Family Support Services

From General Revenue Fund. . . . . 284,093

From Federal Funds. . . . . 71,024

Total (Not to exceed 106.00 F.T.E.). . . . . \$4,678,519

**SECTION 9.010.**— To the Department of Corrections

For the Office of the Director

For the purpose of funding all costs associated with the Offender Reentry Program

Expense and Equipment

From Inmate Revolving Fund. . . . . \$316,282

For a Kansas City Reentry Program

From General Revenue Fund. . . . . 178,000

Total. . . . . \$494,282

**SECTION 9.015.**— To the Department of Corrections

For the Office of the Director

For the purpose of receiving and expending grants, donations, contracts, and payments from private, federal, and other governmental agencies which may become available between sessions of the General Assembly provided that the General Assembly shall be notified of the source of any new funds and the purpose for which they should be expended, in writing, prior to the use of said funds

Personal Service. . . . . \$2,595,487E

Expense and Equipment . . . . . 7,087,279E

From Federal and Other Funds . . . . . 9,682,766

For the expenditures of contributions, gifts, and grants in support of a foster care dog program to increase the adoptability of shelter animals and train service dogs for the disabled

From Institutional Gift Trust Fund. . . . . 10,000E

Total (Not to exceed 52.00 F.T.E.). . . . . \$9,692,766

**SECTION 9.020.**— To the Department of Corrections

For the Office of the Director

For the purpose of funding costs associated with increased offender population department-wide, including, but not limited to, funding for personal service, expense and equipment, contractual services, repairs, renovations, capital improvements, and compensatory time provided that not more than thirty-five percent (35%) flexibility is allowed between personal service and expense and equipment and not more than thirty-five percent (35%) flexibility is allowed between divisions

From General Revenue Fund. . . . . \$1,390,714

**SECTION 9.025.**— To the Department of Corrections

For the Office of the Director

For the purpose of funding telecommunications department-wide provided that not more than thirty-five percent (35%) flexibility is allowed between divisions

Expense and Equipment

From General Revenue Fund. . . . . \$1,910,674

**SECTION 9.030.**— To the Department of Corrections

For the Office of the Director

For the purpose of funding restitution payments for those wrongly convicted

From General Revenue Fund. . . . . \$151,475

**SECTION 9.035.**— To the Department of Corrections

For the Division of Human Services

Personal Service and/or Expense and Equipment, provided that not more than thirty-five percent (35%) flexibility is allowed between personal service and expense and equipment and not more than thirty-five percent (35%) flexibility is allowed between divisions

From General Revenue Fund. . . . . \$8,429,737

From Inmate Revolving Fund. . . . . 174,468

Total (Not to exceed 242.10 F.T.E.) . . . . . \$8,604,205

**SECTION 9.040.**— To the Department of Corrections

For the Division of Human Services

For the purpose of funding general services provided that not more than thirty-five percent (35%) flexibility is allowed between divisions

Expense and Equipment

From General Revenue Fund. . . . . \$330,132

**SECTION 9.045.**— To the Department of Corrections

For the Division of Human Services

For the purchase, transportation, and storage of food and food service items, and operational expenses of food preparation facilities at all correctional institutions provided that not more than thirty-five percent (35%) flexibility is allowed between divisions

Expense and Equipment

From General Revenue Fund. . . . . \$29,080,994

From Federal Funds. . . . . 250,000E

Total. . . . . \$29,330,994

**SECTION 9.050.**— To the Department of Corrections

For the Division of Human Services

For the purpose of funding training costs department-wide provided that not  
more than thirty-five percent (35%) flexibility is allowed between divisions  
Expense and Equipment

From General Revenue Fund. . . . . \$1,249,124

**SECTION 9.055.**— To the Department of Corrections

For the Division of Human Services

For the purpose of funding employee health and safety provided that not  
more than thirty-five percent (35%) flexibility is allowed between divisions  
Expense and Equipment

From General Revenue Fund. . . . . \$582,480

**SECTION 9.060.**— To the Department of Corrections

For the Division of Human Services

For the purpose of paying overtime to state employees and/or paying otherwise  
authorized personal service expenditures in lieu of such overtime payments.  
Nonexempt state employees identified by Section 105.935, RSMo, will be  
paid first with any remaining funds being used to pay overtime to any other  
state employees provided that not more than thirty-five percent (35%)  
flexibility is allowed between divisions

From General Revenue Fund. . . . . \$7,877,448

From Other Funds. . . . . 2E

Total. . . . . \$7,877,450

**SECTION 9.065.**— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the expenses and small equipment purchased at  
any of the adult institutions department-wide provided that not more than  
thirty-five percent (35%) flexibility is allowed between divisions  
Expense and Equipment

From General Revenue Fund. . . . . \$12,289,186

From Working Capital Revolving Fund. . . . . 3,000,000

Total. . . . . \$15,289,186

**SECTION 9.070.**— To the Department of Corrections

For the Division of Adult Institutions

Personal Service and/or Expense and Equipment, provided that not more  
than thirty-five percent (35%) flexibility is allowed between personal  
service and expense and equipment and not more than thirty-five percent  
(35%) flexibility is allowed between divisions

From General Revenue Fund (Not to exceed 36.25 F.T.E.). . . . . \$1,602,290

**SECTION 9.075.**— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the inmate wage and discharge costs at all  
correctional facilities provided that not more than thirty-five percent  
(35%) flexibility is allowed between divisions  
Expense and Equipment

From General Revenue Fund. . . . . \$3,279,897

**SECTION 9.080.**— To the Department of Corrections  
For the Division of Adult Institutions  
For the purpose of funding the Jefferson City Correctional Center  
    Personal Service, provided that not more than twenty-five percent  
    (25%) flexibility is allowed between institutions  
From General Revenue Fund (Not to exceed 520.00 F.T.E.) . . . . . \$16,374,109

**SECTION 9.085.**— To the Department of Corrections  
For the Division of Adult Institutions  
For the purpose of funding the Central Missouri Correctional Center  
    at Jefferson City  
    Personal Service, provided that not more than twenty-five  
    percent (25%) flexibility is allowed between institutions  
From General Revenue Fund (Not to exceed 15.00 F.T.E.) . . . . . \$571,089

**SECTION 9.090.**— To the Department of Corrections  
For the Division of Adult Institutions  
For the purpose of funding the Women's Eastern Reception, Diagnostic  
    and Correctional Center at Vandalia  
    Personal Service, provided that not more than twenty-five  
    percent (25%) flexibility is allowed between institutions  
From General Revenue Fund (Not to exceed 433.00 F.T.E.) . . . . . \$13,317,693

**SECTION 9.095.**— To the Department of Corrections  
For the Division of Adult Institutions  
For the purpose of funding the Ozark Correctional Center at Fordland  
    Personal Service, provided that not more than twenty-five  
    percent (25%) flexibility is allowed between institutions  
From General Revenue Fund. . . . . \$5,116,268  
From Inmate Revolving Fund. . . . . 261,496  
Total (Not to exceed 163.00 F.T.E.) . . . . . \$5,377,764

**SECTION 9.100.**— To the Department of Corrections  
For the Division of Adult Institutions  
For the purpose of funding the Moberly Correctional Center  
    Personal Service, provided that not more than twenty-five  
    percent (25%) flexibility is allowed between institutions  
From General Revenue Fund (Not to exceed 367.00 F.T.E.) . . . . . \$11,835,377

**SECTION 9.105.**— To the Department of Corrections  
For the Division of Adult Institutions  
For the purpose of funding the Algoa Correctional Center at Jefferson City  
    Personal Service, provided that not more than twenty-five  
    percent (25%) flexibility is allowed between institutions  
From General Revenue Fund (Not to exceed 309.00 F.T.E.) . . . . . \$9,761,338

**SECTION 9.110.**— To the Department of Corrections  
For the Division of Adult Institutions  
For the purpose of funding the Missouri Eastern Correctional Center at Pacific  
    Personal Service, provided that not more than twenty-five

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percent (25%) flexibility is allowed between institutions  
From General Revenue Fund (Not to exceed 316.00 F.T.E.). . . . . \$9,965,059

**SECTION 9.115.**— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Chillicothe Correctional Center

Personal Service, provided that not more than twenty-five  
percent (25%) flexibility is allowed between institutions

From General Revenue Fund. . . . . \$12,181,688

From Inmate Revolving Fund. . . . . 27,829

Total (Not to exceed 465.02 F.T.E.). . . . . \$12,209,517

**SECTION 9.120.**— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Boonville Correctional Center

Personal Service, provided that not more than twenty-five  
percent (25%) flexibility is allowed between institutions

From General Revenue Fund. . . . . \$9,038,640

From Inmate Revolving Fund. . . . . 33,876

Total (Not to exceed 282.00 F.T.E.). . . . . \$9,072,516

**SECTION 9.125.**— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Farmington Correctional Center

Personal Service, provided that not more than twenty-five  
percent (25%) flexibility is allowed between institutions

From General Revenue Fund (Not to exceed 546.00 F.T.E.). . . . . \$17,464,036

**SECTION 9.130.**— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Western Missouri Correctional Center

at Cameron

Personal Service, provided that not more than twenty-five  
percent (25%) flexibility is allowed between institutions

From General Revenue Fund (Not to exceed 478.00 F.T.E.). . . . . \$15,006,299

**SECTION 9.135.**— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Potosi Correctional Center

Personal Service, provided that not more than twenty-five  
percent (25%) flexibility is allowed between institutions

From General Revenue Fund (Not to exceed 325.00 F.T.E.). . . . . \$10,478,807

**SECTION 9.140.**— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Fulton Reception and Diagnostic Center

Personal Service, provided that not more than twenty-five  
percent (25%) flexibility is allowed between institutions

From General Revenue Fund (Not to exceed 396.66 F.T.E.). . . . . \$12,502,061

**SECTION 9.145.**— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Tipton Correctional Center

Personal Service, provided that not more than twenty-five  
percent (25%) flexibility is allowed between institutions

From General Revenue Fund. . . . . \$9,593,990

From Inmate Revolving Fund. . . . . 88,206

Total (Not to exceed 299.00 F.T.E.). . . . . \$9,682,196

**SECTION 9.150.**— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Western Reception, Diagnostic and  
Correctional Center at St. JosephPersonal Service, provided that not more than twenty-five  
percent (25%) flexibility is allowed between institutions

From General Revenue Fund (Not to exceed 484.00 F.T.E.). . . . . \$14,989,309

**SECTION 9.155.**— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Maryville Treatment Center

Personal Service, provided that not more than twenty-five  
percent (25%) flexibility is allowed between institutions

From General Revenue Fund (Not to exceed 175.00 F.T.E.). . . . . \$5,674,635

**SECTION 9.160.**— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Crossroads Correctional Center at Cameron

Personal Service, provided that not more than twenty-five  
percent (25%) flexibility is allowed between institutions

From General Revenue Fund (Not to exceed 378.00 F.T.E.). . . . . \$11,824,663

**SECTION 9.165.**— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Northeast Correctional Center at Bowling Green

Personal Service, provided that not more than twenty-five  
percent (25%) flexibility is allowed between institutions

From General Revenue Fund (Not to exceed 521.00 F.T.E.). . . . . \$16,028,470

**SECTION 9.170.**— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Eastern Reception, Diagnostic and  
Correctional Center at Bonne TerrePersonal Service, provided that not more than twenty-five  
percent (25%) flexibility is allowed between institutions

From General Revenue Fund (Not to exceed 615.00 F.T.E.). . . . . \$18,702,334

**SECTION 9.175.**— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the South Central Correctional Center at Licking

Personal Service, provided that not more than twenty-five

percent (25%) flexibility is allowed between institutions  
 From General Revenue Fund (Not to exceed 397.00 F.T.E.). . . . . \$12,276,558

**SECTION 9.180.**— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Southeast Correctional Center at Charleston

Personal Service, provided that not more than twenty-five

percent (25%) flexibility is allowed between institutions

From General Revenue Fund (Not to exceed 397.00 F.T.E.). . . . . \$12,203,555

**SECTION 9.185.**— To the Department of Corrections

For the Division of Offender Rehabilitative Services

Personal Service and/or Expense and Equipment, provided that not

more than thirty-five percent (35%) flexibility is allowed between

personal service and expense and equipment and not more than

thirty-five percent (35%) flexibility is allowed between divisions

From General Revenue Fund (Not to exceed 33.15 F.T.E.). . . . . \$1,561,069

**SECTION 9.190.**— To the Department of Corrections

For the Division of Offender Rehabilitative Services

For the purpose of funding contractual services for offender physical and

mental health care provided that not more than thirty-five percent

(35%) flexibility is allowed between divisions

From General Revenue Fund. . . . . \$138,856,854

Expense and Equipment

From Federal Funds. . . . . 1E

Total. . . . . \$138,856,855

**SECTION 9.195.**— To the Department of Corrections

For the Division of Offender Rehabilitative Services

For the purpose of funding medical equipment provided that not more

than thirty-five percent (35%) flexibility is allowed between divisions

Expense and Equipment

From General Revenue Fund. . . . . \$219,087

**SECTION 9.200.**— To the Department of Corrections

For the Division of Offender Rehabilitative Services

For the purpose of substance abuse services provided that not more

than thirty-five percent (35%) flexibility is allowed between divisions

From General Revenue Fund. . . . . \$9,273,875

Expense and Equipment

From Correctional Substance Abuse Earnings Fund. . . . . 264,600

Total (Not to exceed 109.00 F.T.E.). . . . . \$9,538,475

**SECTION 9.205.**— To the Department of Corrections

For the Division of Offender Rehabilitative Services

For the purpose of toxicology testing provided that not more than

thirty-five percent (35%) flexibility is allowed between divisions

Expense and Equipment



From General Revenue Fund. . . . . \$709,596

**SECTION 9.210.**— To the Department of Corrections  
For the Division of Offender Rehabilitative Services  
For offender education

Personal Service and/or Expense and Equipment, provided that not  
more than thirty-five percent (35%) flexibility is allowed between  
personal service and expense and equipment and not more than  
thirty-five percent (35%) flexibility is allowed between divisions

From General Revenue Fund (Not to exceed 252.00 F.T.E.). . . . . \$10,486,267

**SECTION 9.215.**— To the Department of Corrections  
For the Division of Offender Rehabilitative Services  
For the purpose of funding Missouri Correctional Enterprises

Personal Service. . . . . \$8,133,095  
Expense and Equipment. . . . . 25,635,726

From Working Capital Revolving Fund (Not to exceed 222.00 F.T.E.). . . . . \$33,768,821

**SECTION 9.220.**— To the Department of Corrections  
For the Division of Offender Rehabilitative Services  
For the purpose of funding the Private Sector/Prison Industry Enhancement  
Program

Expense and Equipment

From Working Capital Revolving Fund . . . . . \$866,486

**SECTION 9.225.**— To the Department of Corrections  
For the Board of Probation and Parole

Personal Service and/or Expense and Equipment, provided that not  
more than thirty-five percent (35%) flexibility is allowed between  
personal service and expense and equipment and not more than  
thirty-five percent (35%) flexibility is allowed between divisions

From General Revenue Fund. . . . . \$65,340,597

Expense and Equipment

From Inmate Revolving Fund . . . . . 7,704,155

For refunds set-off against debts as required by Section 143.786, RSMo

From Debt Offset Escrow Fund. . . . . 1E

Total (Not to exceed 1,751.81 F.T.E.). . . . . \$73,044,753

**SECTION 9.230.**— To the Department of Corrections  
For the Board of Probation and Parole  
For the purpose of funding the St. Louis Community Release Center

Personal Service, provided that not more than thirty-five  
percent (35%) flexibility is allowed between divisions

From General Revenue Fund (Not to exceed 125.86 F.T.E.). . . . . \$4,110,089

**SECTION 9.235.**— To the Department of Corrections  
For the Board of Probation and Parole  
For the purpose of funding the Kansas City Community Release Center  
Personal Service, provided that not more than thirty-five percent

(35%) flexibility is allowed between divisions	
From General Revenue Fund. . . . .	\$2,379,483
From Inmate Revolving Fund. . . . .	<u>47,423</u>
Total (Not to exceed 76.18 F.T.E.). . . . .	\$2,426,906

**SECTION 9.240.**— To the Department of Corrections

For the Board of Probation and Parole

For the purpose of funding the Command Center provided that not more than thirty-five percent (35%) flexibility is allowed between personal service and expense and equipment and not more than thirty-five percent (35%) flexibility is allowed between divisions  
Expense and Equipment

From General Revenue Fund. . . . .	\$5,125
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Personal Service

From Inmate Revolving Fund. . . . .	<u>542,932</u>
Total (Not to exceed 14.40 F.T.E.). . . . .	\$548,057

**SECTION 9.245.**— To the Department of Corrections

For the Board of Probation and Parole

For the purpose of funding Local Sentencing initiatives

Expense and Equipment

From General Revenue Fund. . . . .	\$2,000,000
From Inmate Revolving Fund. . . . .	<u>815,337</u>
Total. . . . .	\$2,815,337

**SECTION 9.250.**— To the Department of Corrections

For the Board of Probation and Parole

For the purpose of funding residential treatment facilities

Expense and Equipment

From Inmate Revolving Fund. . . . .	\$3,989,458
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**SECTION 9.255.**— To the Department of Corrections

For the Board of Probation and Parole

For the purpose of funding electronic monitoring

Expense and Equipment

From Inmate Revolving Fund. . . . .	\$1,780,289
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**SECTION 9.260.**— To the Department of Corrections

For the Board of Probation and Parole

For the purpose of funding community supervision centers

Personal Service and/or Expense and Equipment, provided that not more than thirty-five percent (35%) flexibility is allowed between personal service and expense and equipment and not more than thirty-five percent (35%) flexibility is allowed between divisions

From General Revenue Fund. . . . .	\$4,413,596
From Inmate Revolving Fund. . . . .	<u>750,000</u>
Total (Not to exceed 144.42 F.T.E.). . . . .	\$5,163,596

**SECTION 9.265.**— To the Department of Corrections

For paying an amount in aid to the counties that is the net amount of costs

in criminal cases, transportation of convicted criminals to the state  
penitentiaries, housing, and costs for reimbursement of the expenses  
associated with extradition, less the amount of unpaid city or county  
liability to furnish public defender office space and utility services  
pursuant to Section 600.040, RSMo  
From General Revenue Fund. . . . . \$38,060,616

**Bill Totals**

General Revenue Fund. . . . . \$595,281,878  
Federal Funds. . . . . 10,003,791  
Other Funds. . . . . 54,441,661  
Total. . . . . \$659,727,330

Approved June 10, 2011

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**HB 10 [CCS SCS HCS HB 10]**

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**APPROPRIATIONS: DEPARTMENT OF MENTAL HEALTH, DEPARTMENT OF HEALTH AND SENIOR SERVICES, AND MISSOURI HEALTH FACILITIES REVIEW COMMITTEE.**

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Mental Health, the Department of Health and Senior Services, and the several divisions and programs thereof, and the Missouri Health Facilities Review Committee to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2011 and ending June 30, 2012; provided that no funds from these sections shall be expended for the purpose of costs associated with travel or staffing for the offices of the Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, or Attorney General.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2011 and ending June 30, 2012, as follows:

**SECTION 10.005.** — To the Department of Mental Health

For the Office of the Director

Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment  
From General Revenue Fund. . . . . \$531,754  
  
Personal Service. . . . . 102,325  
Expense and Equipment. . . . . 76,223

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From Federal Funds. . . . .	178,548
Total (Not to exceed 8.81 F.T.E.). . . . .	<u>\$710,302</u>

**SECTION 10.010.**— To the Department of Mental Health

For the Office of the Director

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund. . . . .	\$1,090,712
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**SECTION 10.015.**— There is transferred out of the State Treasury from Federal Funds to the OA Information Technology - Federal and Other Fund for the purpose of funding the consolidation of Information Technology Services

From Federal Funds. . . . .	\$60,000E
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**SECTION 10.020.**— To the Department of Mental Health

For the Office of the Director

For the purpose of funding Mental Health Transformation - State

Incentive grants

Personal Service. . . . .	\$726,856
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Expense and Equipment . . . . .	<u>2,060,214E</u>
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From Federal Funds (Not to exceed 9.85 F.T.E.). . . . .	<u>\$2,787,070</u>
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**SECTION 10.025.**— To the Department of Mental Health

For the Office of the Director

For funding program operations and support

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. . . . .	\$5,088,495
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Personal Service. . . . .	791,523
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Expense and Equipment. . . . .	<u>847,016</u>
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From Federal Funds . . . . .	1,638,539
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For the Missouri Medicaid mental health partnership technology initiative

From General Revenue Fund. . . . .	674,811
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From Federal Funds . . . . .	1,716,650
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For the payment of fees to contractors who engage in revenue maximization projects on behalf of the Department of Mental Health

From Federal Funds. . . . .	<u>1E</u>
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Total (Not to exceed 127.05 F.T.E.). . . . .	<u>\$9,118,496</u>
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**SECTION 10.030.**— To the Department of Mental Health

For the Office of the Director

For staff training

From General Revenue Fund. . . . .	\$358,078
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From Federal Funds . . . . .	500,000
From Mental Health Earnings Fund. . . . .	<u>100,000</u>
Total. . . . .	\$958,078

**SECTION 10.035.**— To the Department of Mental Health

For the Office of the Director

For the purpose of funding insurance, private pay, licensure fee, and/or  
 Medicaid refunds by state facilities operated by the Department of  
 Mental Health

From General Revenue Fund. . . . . \$49,217E

For the purpose of making refund payments

From Federal and Other Funds . . . . . 1,000E

For the payment of refunds set off against debts as required by  
 Section 143.786, RSMo

From Debt Offset Escrow Fund. . . . . 70,000E

Total. . . . . \$120,217

**SECTION 10.040.**— There is transferred out of the State Treasury from  
the Abandoned Fund Account to Mental Health Trust Fund

From Abandoned Fund Account. . . . . \$50,000E

**SECTION 10.045.**— To the Department of Mental Health

For the Office of the Director

For the purpose of funding receipt and disbursement of donations and  
 gifts which may become available to the Department of Mental  
 Health during the year (excluding federal grants and funds)

Personal Service. . . . . \$427,464

Expense and Equipment. . . . . 1,219,597

From Mental Health Trust Fund (Not to exceed 11.50 F.T.E.).. . . . \$1,647,061

**SECTION 10.050.**— To the Department of Mental Health

For the Office of the Director

For the purpose of receiving and expending grants, donations, contracts,  
 and payments from private, federal, and other governmental agencies  
 which may become available between sessions of the General Assembly  
 provided that the General Assembly shall be notified of the source of  
 any new funds and the purpose for which they shall be expended, in  
 writing, prior to the use of said funds

Personal Service. . . . . \$112,982E

Expense and Equipment . . . . . 1,794,378E

From Federal Funds (Not to exceed 2.00 F.T.E.).. . . . \$1,907,360

**SECTION 10.055.**— To the Department of Mental Health

For the Office of the Director

For the purpose of funding Children's System of Care.. . . . \$3,519,307

Personal Service and/or Expense and Equipment, provided that not  
 more than twenty percent (20%) flexibility is allowed between  
 personal service and expense and equipment. . . . . 451,382

From Federal Funds (Not to exceed 2.20 F.T.E.).. . . . \$3,970,689

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**SECTION 10.060.**— To the Department of Mental Health

For the Office of the Director

For housing assistance for homeless veterans

From General Revenue Fund. . . . . \$255,000

From Federal Funds . . . . . 715,000

For the purpose of funding Shelter Plus Care grants

From Federal Funds. . . . . 10,152,802Total. . . . . \$11,122,802**SECTION 10.065.**— To the Department of Mental Health

For Medicaid payments related to intergovernmental payments

From Federal Funds. . . . . \$11,000,000E

From Mental Health Intergovernmental Transfer Fund. . . . . 8,000,000Total. . . . . \$19,000,000

**SECTION 10.070.**— There is hereby transferred out of the State Treasury,  
chargeable to the General Revenue Fund, to the Department of Social  
Services Intergovernmental Transfer Fund for the purpose of providing  
the state match for the Department of Mental Health payments

From General Revenue Fund. . . . . \$147,900,000E

**SECTION 10.075.**— There is transferred out of the State Treasury from  
Federal Funds to the General Revenue Fund for the purpose of  
supporting the Department of Mental Health

From Federal Funds. . . . . \$6,989,018E

**SECTION 10.080.**— There is transferred out of the State Treasury from  
Federal Funds to the General Revenue Fund Disproportionate Share  
Hospital (DSH) funds leveraged by the Department of Mental  
Health - Institute of Mental Disease (IMD) facilities

From Federal Funds. . . . . \$37,304,309E

**SECTION 10.100.**— To the Department of Mental Health

For the Division of Alcohol and Drug Abuse

For the purpose of funding the administration of statewide comprehensive  
alcohol and drug abuse prevention and treatment programs

Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment

From General Revenue Fund. . . . . \$929,595

Personal Service. . . . . 864,468

Expense and Equipment. . . . . 180,565From Federal Funds . . . . . 1,045,033

Personal Service

From Health Initiatives Fund . . . . . 45,069

Personal Service and/or Expense and Equipment, provided that not more  
than ten percent (10%) flexibility is allowed between personal service

and expense and equipment	
From Mental Health Earnings Fund. . . . .	226,433
Total (Not to exceed 41.17 F.T.E.). . . . .	<u>\$2,246,130</u>

**SECTION 10.105.** — To the Department of Mental Health  
For the Division of Alcohol and Drug Abuse  
For the purpose of funding prevention and education services

Personal Service	
From General Revenue Fund. . . . .	\$25,973

For prevention and education services. . . . .	3,315,184
Personal Service. . . . .	368,824
Expense and Equipment. . . . .	<u>42,363</u>
From Federal Funds . . . . .	<u>3,726,371</u>

For prevention and education services	
Personal Service and/or Expense and Equipment	
From Healthy Families Trust Fund . . . . .	300,000

For tobacco retailer education

The Division of Alcohol and Drug Abuse shall be allowed to use persons under the age of eighteen for the purpose of tobacco retailer education in support of Synar requirements under the federal substance abuse prevention and treatment block grant

Personal Service. . . . .	19,074
Expense and Equipment. . . . .	<u>103,622</u>
From Federal Funds . . . . .	<u>122,696</u>

For enabling enforcement of the provisions of the Family Smoking Prevention and Tobacco Control Act of 2009, in collaboration with the Department of Public Safety, Division of Alcohol and Tobacco Control

Personal Service. . . . .	256,558
Expense and Equipment. . . . .	<u>132,185</u>
From Federal Funds . . . . .	<u>388,743</u>

For Community 2000 Team programs

From General Revenue Fund. . . . .	498,969
From Federal Funds . . . . .	2,059,693
From Health Initiatives Fund . . . . .	82,148

For school-based alcohol and drug abuse prevention programs

From Federal Funds. . . . .	<u>1,227,356</u>
Total (Not to exceed 13.56 F.T.E.). . . . .	<u>\$8,431,949</u>

**SECTION 10.110.** — To the Department of Mental Health  
For the Division of Alcohol and Drug Abuse

For the purpose of funding the treatment of alcohol and drug abuse

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment. . . . .

personal service and expense and equipment. . . . .	\$4,952,893
For treatment of alcohol and drug abuse . . . . .	<u>26,381,252</u>

From General Revenue Fund. . . . .	31,334,145
For the purpose of funding youth services	
From Mental Health Interagency Payments Fund . . . . .	30,000
For treatment of alcohol and drug abuse. . . . .	45,195,186E
Personal Service. . . . .	779,722
Expense and Equipment. . . . .	<u>3,036,012</u>
From Federal Funds . . . . .	49,010,920
For treatment of drug and alcohol abuse with the Access to Recovery Grant	
For treatment services . . . . .	3,789,796
Personal Service. . . . .	156,900
Expense and Equipment. . . . .	<u>693,550</u>
From Federal Funds . . . . .	4,640,246
For treatment of alcohol and drug abuse	
From Inmate Revolving Fund . . . . .	3,513,779
From Healthy Families Trust Fund . . . . .	1,964,741
From Health Initiatives Fund . . . . .	6,146,217
From DMH Local Tax Matching Fund. . . . .	<u>599,943</u>
Total (Not to exceed 33.33 F.T.E.). . . . .	\$97,239,991

**SECTION 10.115.**— To the Department of Mental Health

For the Division of Alcohol and Drug Abuse	
For the purpose of funding treatment of compulsive gambling. . . . .	\$204,870
Personal Service. . . . .	39,936
Expense and Equipment. . . . .	<u>5,194</u>
From Compulsive Gamblers Fund (Not to exceed 1.00 F.T.E.). . . . .	\$250,000

**SECTION 10.120.**— To the Department of Mental Health

For the Division of Alcohol and Drug Abuse	
For the purpose of funding the Substance Abuse Traffic Offender Program	
From Federal Funds. . . . .	\$427,864
From Health Initiatives Fund . . . . .	231,466
From Mental Health Earnings Fund . . . . .	<u>3,931,651E</u>
Total (Not to exceed 5.48 F.T.E.). . . . .	\$4,590,981

**SECTION 10.200.**— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services	
For the purpose of funding division administration	
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund. . . . .	\$650,295
Personal Service. . . . .	567,963
Expense and Equipment. . . . .	<u>366,601</u>
From Federal Funds . . . . .	934,564

For suicide prevention initiatives



Personal Service. . . . .	24,892
Expense and Equipment. . . . .	620,401
From Federal Funds. . . . .	645,293
Total (Not to exceed 24.42 F.T.E.). . . . .	\$2,230,152

**SECTION 10.205.**— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding facility support and PRN nursing and direct care staff pool, provided that staff paid from the PRN nursing and direct care staff pool will only incur fringe benefit costs applicable to part-time employment

Personal Service and/or Expense and Equipment

From General Revenue Fund. . . . . \$3,355,377

For the purpose of funding costs for forensic clients resulting from loss of benefits under provisions of the Social Security Domestic Employment Reform Act of 1994

From General Revenue Fund. . . . . 872,594

To pay the state operated hospital provider tax

From General Revenue Fund. . . . . 12,000,000E

For the purpose of funding expenses related to fluctuating census demands, Medicare bundling compliance, Medicare Part D implementation, and to restore facilities personal service and/or expense and equipment incurred for direct care worker training and other operational maintenance expenses

From Federal Funds . . . . . 2,555,545

From Mental Health Earnings Fund . . . . . 416,100

For those Voluntary by Guardian clients transitioning from CPS facilities to the community or to support those clients in facilities waiting to transition to the community

From General Revenue Fund. . . . . 6,000,000

From Federal Funds. . . . . 6,370,000E

Total (Not to exceed 79.40 F.T.E.). . . . . \$31,569,616

**SECTION 10.210.**— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding adult community programs

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. . . . . \$347,426

From Federal Funds . . . . . 1,358,633

For the purpose of funding adult community programs, provided that up to ten percent (10%) of this appropriation may be used for services for youth

From General Revenue Fund. . . . . 82,031,290

From Federal Funds . . . . . 90,202,601E

From Mental Health Earnings Fund . . . . . 583,740E

From DMH Local Tax Matching Fund . . . . . 238,617E

For the provision of mental health services and support services to other agencies  
 From Mental Health Interagency Payments Fund . . . . . 1,272,400

For the purpose of funding programs for the homeless mentally ill  
 From General Revenue Fund. . . . . 496,047  
 From Federal Funds . . . . . 936,000

For inpatient redesign community alternatives  
 From General Revenue Fund. . . . . 5,000,000  
 From Federal Funds . . . . . 1,363,141E

For the purpose of funding the Missouri Eating Disorder Council and  
 its responsibilities under Section 630.575, RSMo  
 Personal Service and/or Expense and Equipment  
 From General Revenue Fund. . . . . 150,000  
 Total (Not to exceed 7.80 F.T.E.). . . . . \$183,979,895

**\*SECTION 10.215.**— To the Department of Mental Health  
 For the Division of Comprehensive Psychiatric Services  
 For the purpose of reimbursing attorneys, physicians, and counties for fees  
 in involuntary civil commitment procedures. . . . . \$738,366E  
 For distribution through the Office of Administration to counties pursuant  
 to Section 56.700, RSMo. . . . . 162,550  
 From General Revenue Fund. . . . . \$900,916

\*I hereby veto \$30,000 General Revenue Fund for Boone County Legal Fees. These funds are  
 unable to be expended because they do not qualify under Section 56.700, RSMo.

For distribution through the Office of Administration to counties pursuant to Section 56.700,  
 RSMo by \$30,000 from \$162,550 to \$132,550 General Revenue Fund.  
 From \$900,916 to \$870,916 in total from General Revenue Fund  
 From \$900,916 to \$870,916 in total for the section.

**JEREMIAH W. (JAY) NIXON, GOVERNOR**

**SECTION 10.220.**— To the Department of Mental Health  
 For the Division of Comprehensive Psychiatric Services  
 For the purpose of funding forensic support services  
 Personal Service and/or Expense and Equipment, provided that not  
 more than twenty-five percent (25%) flexibility is allowed between  
 personal service and expense and equipment  
 From General Revenue Fund. . . . . \$744,562  
 From Federal Funds. . . . . 4,094  
 Total (Not to exceed 20.39 F.T.E.). . . . . \$748,656

**SECTION 10.225.**— To the Department of Mental Health  
 For the Division of Comprehensive Psychiatric Services  
 For the purpose of funding youth community programs  
 Personal Service and/or Expense and Equipment, provided that not  
 more than twenty-five percent (25%) flexibility is allowed between  
 personal service and expense and equipment

From General Revenue Fund. . . . .	\$170,534
From Federal Funds . . . . .	1,291,914

For the purpose of funding youth community programs, provided that up to ten percent (10%) of this appropriation may be used for services for adults

From General Revenue Fund. . . . .	24,286,099
From Federal Funds . . . . .	29,194,829E
From DMH Local Tax Matching Fund . . . . .	891,106E

For the purpose of funding youth services

From Mental Health Interagency Payments Fund. . . . .	4,000,000
Total (Not to exceed 6.29 F.T.E.). . . . .	\$59,834,482

**SECTION 10.230.** — To the Department of Mental Health  
For the Division of Comprehensive Psychiatric Services  
For the purpose of funding services for children who are clients of the Department of Social Services  
Expense and Equipment

From Mental Health Interagency Payments Fund. . . . .	\$156,135
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**SECTION 10.235.** — To the Department of Mental Health  
For the Division of Comprehensive Psychiatric Services  
For the purchase and administration of new medication therapies  
Expense and Equipment

From General Revenue Fund. . . . .	\$11,850,804
From Federal Funds. . . . .	916,243
Total. . . . .	\$12,767,047

**SECTION 10.300.** — To the Department of Mental Health  
For the Division of Comprehensive Psychiatric Services  
For the purpose of funding Fulton State Hospital  
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment and not more than twenty-five percent (25%) flexibility is allowed between Fulton State Hospital and Fulton State Hospital - Sexual Offender Rehabilitation and Treatment Services program

From General Revenue Fund. . . . .	\$39,944,938
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Personal Service. . . . .	897,777
Expense and Equipment. . . . .	1,034,074
From Federal Funds . . . . .	1,931,851

For the provision of support services to other agencies  
Expense and Equipment

From Mental Health Interagency Payments Fund . . . . .	250,000
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For the purpose of paying overtime to state employees and/or paying otherwise

authorized personal service expenditures in lieu of such overtime payments.  
 Non-exempt state employees identified by Section 105.935, RSMo, will be  
 paid first with any remaining funds being used to pay overtime to any other  
 state employees

From General Revenue Fund. . . . . 1,274,347

For the purpose of funding Fulton State Hospital - Sexual Offender Rehabilitation  
 and Treatment Services Program

Personal Service and/or Expense and Equipment, provided that not more  
 than twenty-five percent (25%) flexibility is allowed between Fulton State  
 Hospital - Sexual Offender Rehabilitation and Treatment Services Program  
 and the Southeast Missouri Mental Health Center - Sexual Offender  
 Rehabilitation and Treatment Services Program, and not more than  
 twenty-five percent (25%) flexibility is allowed between Fulton State  
 Hospital - Sexual Offender Rehabilitation and Treatment Services Program  
 and Fulton State Hospital, and that not more than twenty-five percent (25%)  
 flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. . . . . 3,930,336

For the purpose of paying overtime to state employees and/or paying otherwise  
 authorized personal service expenditures in lieu of such overtime payments.  
 Non-exempt state employees identified by Section 105.935, RSMo, will be  
 paid first with any remaining funds being used to pay overtime to any other  
 state employees

From General Revenue Fund. . . . . 59,795

Total (Not to exceed 1,001.56 F.T.E.). . . . . \$47,391,267

**SECTION 10.305.**— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Northwest Missouri Psychiatric Rehabilitation Center

Personal Service and/or Expense and Equipment, provided that not  
 more than twenty-five percent (25%) may be spent on the Purchase of  
 Community Services, including transitioning clients to the community  
 or other state-operated facilities, and that not more than twenty-five  
 percent (25%) flexibility is allowed between personal service and expense  
 and equipment

From General Revenue Fund. . . . . \$11,799,234

Personal Service. . . . . 577,400

Expense and Equipment. . . . . 105,903

From Federal Funds . . . . . 683,303

For psychiatric services

From Mental Health Trust Fund. . . . . 447,558

For the purpose of paying overtime to state employees and/or paying otherwise  
 authorized personal service expenditures in lieu of such overtime payments.  
 Non-exempt state employees identified by Section 105.935, RSMo, will be  
 paid first with any remaining funds being used to pay overtime to any other  
 state employees

From General Revenue Fund. . . . . 161,080

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From Federal Funds. . . . .	11,082
Total (Not to exceed 296.51 F.T.E.).. . . .	<u>\$13,102,257</u>

**SECTION 10.310.**— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding St. Louis Psychiatric Rehabilitation Center

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. . . . .	\$18,779,222
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Personal Service. . . . .	300,890
Expense and Equipment. . . . .	<u>93,210</u>

From Federal Funds . . . . .	394,100
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For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund. . . . .	278,968
From Federal Funds. . . . .	<u>917</u>
Total (Not to exceed 488.04 F.T.E.).. . . .	<u>\$19,453,207</u>

**SECTION 10.315.**— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Southwest Missouri Psychiatric Rehabilitation Center

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. . . . .	\$2,924,364
From Federal Funds . . . . .	193,761

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund. . . . .	14,911
Total (Not to exceed 75.47 F.T.E.).. . . .	<u>\$3,133,036</u>

**SECTION 10.320.**— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Metropolitan St. Louis Psychiatric Center

Personal Service and/or Expense and Equipment, provided that not

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more than twenty-five percent (25%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. . . . . \$8,490,910

Personal Service

From Federal Funds . . . . . 289,680

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund. . . . . 16,544

From Federal Funds. . . . . 1,126

Total (Not to exceed 190.50 F.T.E.). . . . . \$8,798,260

**SECTION 10.330.**— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Southeast Missouri Mental Health Center Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment and not more than twenty-five percent (25%) flexibility is allowed between Southeast Missouri Mental Health Center and Southeast Missouri Mental Health Center - Sexual Offender Rehabilitation and Treatment Services Program

From General Revenue Fund. . . . . \$19,147,886

From Federal Funds . . . . . 345,788

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund. . . . . 158,816

For the purpose of funding Southeast Missouri Mental Health Center - Sexual Offender Rehabilitation and Treatment Services Program Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between Southeast Missouri Mental Health Center - Sexual Offender Rehabilitation and Treatment Services Program and Fulton State Hospital-Sexual Offender Rehabilitation and Treatment Services Program, and that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment and not more than twenty-five percent (25%) flexibility is allowed between Southeast Missouri Mental Health Center -

Sexual Offender Rehabilitation and Treatment Services Program and Southeast Missouri Mental Health Center	
From General Revenue Fund. . . . .	15,062,669
From Federal Funds . . . . .	27,118

For the purpose of paying overtime to state employees and/or paying otherwise  
authorized personal service expenditures in lieu of such overtime payments.  
Non-exempt state employees identified by Section 105.935, RSMo, will be  
paid first with any remaining funds being used to pay overtime to any other  
state employees

From General Revenue Fund. . . . .	82,611
Total (Not to exceed 851.65 F.T.E.).. . . .	\$34,824,888

**SECTION 10.340.**— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Center for Behavioral Medicine

Personal Service and/or Expense and Equipment, provided that not more  
than twenty-five percent (25%) may be spent on the Purchase of  
Community Services, including transitioning clients to the community  
or other state-operated facilities, and that not more than twenty-five  
percent (25%) flexibility is allowed between personal service and  
expense and equipment

From General Revenue Fund. . . . .	\$14,389,456
From Federal Funds . . . . .	731,201

For the purpose of paying overtime to state employees and/or paying otherwise  
authorized personal service expenditures in lieu of such overtime payments.  
Non-exempt state employees identified by Section 105.935, RSMo, will be  
paid first with any remaining funds being used to pay overtime to any other  
state employees

From General Revenue Fund. . . . .	239,911
Total (Not to exceed 343.05 F.T.E.).. . . .	\$15,360,568

**SECTION 10.350.**— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Hawthorn Children's Psychiatric Hospital

Personal Service and/or Expense and Equipment, provided that not  
more than twenty percent (20%) flexibility is allowed between personal  
service and expense and equipment

From General Revenue Fund. . . . .	\$6,520,066
From Federal Funds . . . . .	1,720,063

For the purpose of paying overtime to state employees and/or paying otherwise  
authorized personal service expenditures in lieu of such overtime payments.  
Non-exempt state employees identified by Section 105.935, RSMo, will be  
paid first with any remaining funds being used to pay overtime to any other  
state employees

From General Revenue Fund. . . . .	62,671
From Federal Funds. . . . .	7,116
Total (Not to exceed 205.80 F.T.E.).. . . .	\$8,309,916

**SECTION 10.355.**— To the Department of Mental Health

For the purpose of funding Cottonwood Residential Treatment Center

Personal Service and/or Expense and Equipment, provided that not  
more than twenty percent (20%) flexibility is allowed between personal  
service and expense and equipment

From General Revenue Fund. . . . .	\$1,306,476
From Federal Funds . . . . .	2,027,345

For the purpose of paying overtime to state employees and/or paying otherwise  
authorized personal service expenditures in lieu of such overtime payments.

Non-exempt state employees identified by Section 105.935, RSMo, will be  
paid first with any remaining funds being used to pay overtime to any other  
state employees

From General Revenue Fund. . . . .	18,891
From Federal Funds. . . . .	1,103
Total (Not to exceed 87.03 F.T.E.). . . . .	\$3,353,815

**SECTION 10.400.**— To the Department of Mental Health

For the Division of Developmental Disabilities

For the purpose of funding division administration

Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment

From General Revenue Fund. . . . .	\$1,463,040
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Personal Service. . . . .	303,009
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Expense and Equipment. . . . .	60,881
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From Federal Funds. . . . .	363,890
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Total (Not to exceed 33.10 F.T.E.). . . . .	\$1,826,930
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**SECTION 10.405.**— To the Department of Mental Health

For the purpose of funding cost associated with the Division of Developmental

Disabilities to achieve personnel standards at habilitation centers

Personal Service and/or Expense and Equipment

From General Revenue Fund. . . . .	\$2,139,124
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From Federal Funds . . . . .	5,105,407
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To pay the state operated ICF/MR provider tax

From General Revenue Fund. . . . .	4,582,418E
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Total (Not to exceed 103.76 F.T.E.). . . . .	\$11,826,949
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**SECTION 10.410.**— To the Department of Mental Health

For the Division of Developmental Disabilities

Provided that residential services for non-Medicaid eligibles shall  
not be reduced below the prior year expenditures as long as the  
person is evaluated to need the services

For the purpose of funding community programs

From General Revenue Fund. . . . .	\$158,730,285
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From Federal Funds . . . . .	320,251,935E
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For the purpose of funding community programs



Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment  
 From General Revenue Fund. . . . . 648,004

Personal Service. . . . . 184,788  
 Expense and Equipment. . . . . 41,776  
 From Federal Funds . . . . . 226,564

For consumer and family directed supports/in-home services/choices for families  
 From General Revenue Fund. . . . . 17,985,322

For the purpose of funding programs and in-home family directed services for persons with autism and their families  
 From General Revenue Fund. . . . . 9,621,176

For services for children who are clients of the Department of Social Services  
 From Mental Health Interagency Payments Fund . . . . . 5,443,549E

For purposes of funding youth services  
 From Mental Health Interagency Payments Fund . . . . . 550,000

For Senate Bill 40 Board Tax Funds to be used as match for Medicaid initiatives for clients of the division  
 From DMH Local Tax Matching Fund. . . . . 12,853,770E  
 Total (Not to exceed 15.55 F.T.E.).. . . . \$526,310,605

**SECTION 10.415.**— To the Department of Mental Health

For the Division of Developmental Disabilities

For the purpose of funding community support staff

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment  
 From General Revenue Fund. . . . . \$7,511,056  
 From Federal Funds. . . . . 11,591,503  
 Total (Not to exceed 421.92 F.T.E.).. . . . \$19,102,559

**SECTION 10.420.**— To the Department of Mental Health

For the Division of Developmental Disabilities

For the purpose of funding developmental disabilities services

Personal Service. . . . . \$372,505  
 Expense and Equipment. . . . . 1,187,593  
 From Federal Funds (Not to exceed 7.98 F.T.E.).. . . . \$1,560,098

**SECTION 10.425.**— There is transferred out of the State Treasury from the

General Revenue Fund to the ICF/MR Reimbursement Allowance Fund

From General Revenue Fund. . . . . \$443,483E

**SECTION 10.430.**— There is transferred out of the State Treasury from the

ICF/MR Reimbursement Allowance Fund to the General Revenue Fund

as a result of recovering the ICF/MR Reimbursement Allowance Fund

From ICF/MR Reimbursement Allowance Fund. . . . . \$2,800,000E

There is transferred out of the State Treasury from the ICF/MR Reimbursement  
Allowance Fund to Federal Funds

From ICF/MR Reimbursement Allowance Fund . . . . . 4,742,365E  
Total. . . . . \$7,542,365

**SECTION 10.500.**— To the Department of Mental Health

For the Division of Developmental Disabilities

For the purpose of funding the Albany Regional Center

Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment

From General Revenue Fund. . . . . \$803,933  
From Federal Funds. . . . . 16,241  
Total (Not to exceed 18.80 F.T.E.). . . . . \$820,174

**SECTION 10.505.**— To the Department of Mental Health

For the Division of Developmental Disabilities

For the purpose of funding the Central Missouri Regional Center

Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment

From General Revenue Fund. . . . . \$937,121  
From Federal Funds. . . . . 47,836  
Total (Not to exceed 27.45 F.T.E.). . . . . \$984,957

**SECTION 10.510.**— To the Department of Mental Health

For the Division of Developmental Disabilities

For the purpose of funding the Hannibal Regional Center

Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment

From General Revenue Fund. . . . . \$974,388  
From Federal Funds. . . . . 61,327  
Total (Not to exceed 20.73 F.T.E.). . . . . \$1,035,715

**SECTION 10.515.**— To the Department of Mental Health

For the Division of Developmental Disabilities

For the purpose of funding the Joplin Regional Center

Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment

From General Revenue Fund (Not to exceed 15.67 F.T.E.). . . . . \$869,994

**SECTION 10.520.**— To the Department of Mental Health

For the Division of Developmental Disabilities

For the purpose of funding the Kansas City Regional Center

Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment

From General Revenue Fund. . . . .	\$1,606,464
From Federal Funds. . . . .	<u>81,643</u>
Total (Not to exceed 35.21 F.T.E.). . . . .	\$1,688,107

**SECTION 10.525.**— To the Department of Mental Health

For the Division of Developmental Disabilities

For the purpose of funding the Kirksville Regional Center

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund (Not to exceed 10.00 F.T.E.). . . . . \$574,642

**SECTION 10.530.**— To the Department of Mental Health

For the Division of Developmental Disabilities

For the purpose of funding the Poplar Bluff Regional Center

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund (Not to exceed 16.47 F.T.E.). . . . . \$718,195

**SECTION 10.535.**— To the Department of Mental Health

For the Division of Developmental Disabilities

For the purpose of funding the Rolla Regional Center

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. . . . . \$544,475

From Federal Funds. . . . . 127,698

Total (Not to exceed 14.00 F.T.E.). . . . . \$672,173

**SECTION 10.540.**— To the Department of Mental Health

For the Division of Developmental Disabilities

For the purpose of funding the Sikeston Regional Center

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund (Not to exceed 18.33 F.T.E.). . . . . \$847,888

**SECTION 10.545.**— To the Department of Mental Health

For the Division of Developmental Disabilities

For the purpose of funding the Springfield Regional Center

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund (Not to exceed 24.25 F.T.E.). . . . . \$1,166,977

**SECTION 10.550.**— To the Department of Mental Health

For the Division of Developmental Disabilities

For the purpose of funding the St. Louis Regional Center

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between

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personal service and expense and equipment	
From General Revenue Fund. . . . .	\$2,979,337
From Federal Funds. . . . .	<u>92,395</u>
Total (Not to exceed 81.26 F.T.E.). . . . .	\$3,071,732

**SECTION 10.555.**— To the Department of Mental Health

For the Division of Developmental Disabilities

For the purpose of funding Bellefontaine Habilitation Center

Personal Service and/or Expense and Equipment provided that not more than fifteen percent (15%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. . . . .	\$5,664,317
From Federal Funds . . . . .	<u>9,804,801</u>

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund. . . . .	888,826
From Federal Funds. . . . .	<u>38,167</u>
Total (Not to exceed 446.52 F.T.E.). . . . .	\$16,396,111

**SECTION 10.560.**— To the Department of Mental Health

For the Division of Developmental Disabilities

For the purpose of funding Higginsville Habilitation Center

Personal Service and/or Expense and Equipment, provided that not more than fifteen percent (15%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. . . . .	\$1,792,784
From Federal Funds . . . . .	<u>6,922,183</u>

For Northwest Community Services

Personal Service and/or Expense and Equipment, provided that not more than fifteen percent (15%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. . . . .	2,527,549
From Federal Funds . . . . .	<u>1,399,421</u>

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund. . . . .	<u>380,162</u>
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From Federal Funds. . . . .	90,992
Total (Not to exceed 450.31 F.T.E.) . . . . .	\$13,113,091

**SECTION 10.565.**— To the Department of Mental Health

For the Division of Developmental Disabilities

For the purpose of funding Marshall Habilitation Center

Personal Service and/or Expense and Equipment, provided that not more than fifteen percent (15%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. . . . .	\$8,854,119
From Federal Funds . . . . .	11,337,766

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund. . . . .	710,601
From Federal Funds. . . . .	53,935
Total (Not to exceed 666.74 F.T.E.) . . . . .	\$20,956,421

**SECTION 10.570.**— To the Department of Mental Health

For the Division of Developmental Disabilities

For the purpose of funding Nevada Habilitation Center

Personal Service and/or Expense and Equipment, provided that not more than fifteen percent (15%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. . . . .	\$2,068,955
From Federal Funds . . . . .	5,669,030

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund. . . . .	8,966
Total (Not to exceed 266.26 F.T.E.) . . . . .	\$7,746,951

**SECTION 10.575.**— To the Department of Mental Health

For the Division of Developmental Disabilities

For the purpose of funding St. Louis Developmental Disabilities Treatment Center

Personal Service and/or Expense and Equipment, provided that not more than fifteen percent (15%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. . . . .	\$6,228,137
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From Federal Funds. . . . .	12,073,264
Total (Not to exceed 614.43 F.T.E.). . . . .	\$18,301,401

**SECTION 10.580.**— To the Department of Mental Health

For the Division of Developmental Disabilities

For the purpose of funding Southeast Missouri Residential Services

Personal Service and/or Expense and Equipment, provided that not more than fifteen percent (15%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. . . . .	\$1,773,540
From Federal Funds . . . . .	3,742,463

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund. . . . .	182,303
From Federal Funds. . . . .	82,281
Total (Not to exceed 197.89 F.T.E.). . . . .	\$5,780,587

**SECTION 10.600.**— To the Department of Health and Senior Services

For the Office of the Director

For the purpose of funding program operations and support

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. . . . .	\$690,091
From Federal Funds. . . . .	2,045,425
Total (Not to exceed 46.79 F.T.E.). . . . .	\$2,735,516

**SECTION 10.605.**— To the Department of Health and Senior Services

For the Division of Administration

For the purpose of funding program operations and support

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. . . . .	\$519,487
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Personal Service

From Federal Funds . . . . .	2,337,172
From Missouri Public Health Services Fund. . . . .	128,498

Expense and Equipment

From Federal and Other Funds. . . . .	3,238,011
Total (Not to exceed 71.73 F.T.E.). . . . .	\$6,223,168

**SECTION 10.610.**— There is transferred out of the State Treasury from the Health Initiatives Fund to the Health Access Incentive Fund

From Health Initiatives Fund. . . . . \$869,503

**SECTION 10.615.**— To the Department of Health and Senior Services

For the Division of Administration

For the purpose of funding the payment of refunds set off against debts  
in accordance with Section 143.786, RSMo

From Debt Offset Escrow Fund. . . . . \$15,000E

**SECTION 10.620.**— To the Department of Health and Senior Services

For the Division of Administration

For the purpose of making refund payments

From General Revenue Fund. . . . . \$1E

From Federal and Other Funds . . . . . 44,736E

Total. . . . . \$44,737

**SECTION 10.625.**— To the Department of Health and Senior Services

For the Division of Administration

For the purpose of receiving and expending grants, donations, contracts, and  
payments from private, federal, and other governmental agencies which  
may become available between sessions of the General Assembly  
provided that the General Assembly shall be notified of the source of  
any new funds and the purpose for which they shall be expended, in  
writing, prior to the use of said funds

From Federal Funds. . . . . \$3,000,001E

From Department of Health - Donated Fund. . . . . 450,000E

Total. . . . . \$3,450,001

**SECTION 10.630.**— To the Department of Health and Senior Services

For the Division of Administration

For contributions from federal and other sources that are deposited in the  
State Treasury for use by the Department of Health and Senior  
Services to furnish aid and relief pursuant to Section 192.326, RSMo

From DHSS Disaster Fund. . . . . \$1E

**SECTION 10.635.**— To the Department of Health and Senior Services

For the Division of Community and Public Health

For the purpose of funding program operations and support

Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment

From General Revenue Fund. . . . . \$6,158,572

From Federal Funds . . . . . 18,628,812

From Health Initiatives Fund . . . . . 1,575,242

Personal Service

From Health Access Incentive Fund. . . . . 94,028

Expense and Equipment

From Governor's Council on Physical Fitness Institution Gift Trust Fund. . . . . 50,000

Personal Service. . . . . 72,526

Expense and Equipment. . . . .	16,900
From Professional and Practical Nursing Student Loan and Nurse Loan Repayment Fund. . . . .	89,426
Personal Service. . . . .	196,479
Expense and Equipment. . . . .	68,532
From Hazardous Waste Fund. . . . .	265,011
Personal Service. . . . .	108,540
Expense and Equipment. . . . .	82,010
From Organ Donor Program Fund. . . . .	190,550
Personal Service. . . . .	325,199
Expense and Equipment. . . . .	116,507
From Missouri Public Health Services Fund. . . . .	441,706
Personal Service. . . . .	360,142
Expense and Equipment. . . . .	275,000E
From Department of Health and Senior Services Document Services Fund . . . . .	635,142
Personal Service. . . . .	174,182
Expense and Equipment. . . . .	633,089
From Department of Health - Donated Fund . . . . .	807,271
Personal Service. . . . .	73,721
Expense and Equipment. . . . .	28,756
From Putative Father Registry Fund. . . . .	102,477
Total (Not to exceed 577.60 F.T.E.). . . . .	\$29,038,237

**SECTION 10.640.** — To the Department of Health and Senior Services

For the Division of Community and Public Health

For the purpose of funding core public health functions and related expenses

From General Revenue Fund. . . . . \$7,665,983

**SECTION 10.645.** — To the Department of Health and Senior Services

For the Division of Community and Public Health

For the purpose of funding community health programs and related expenses

From General Revenue Fund. . . . . \$8,488,205

From Federal Funds . . . . . 43,901,547E

From Organ Donor Program Fund. . . . . 100,000

From C & M Smith Memorial Endowment Trust Fund . . . . . 35,000

From Children's Special Health Care Needs Service Fund . . . . . 30,000

From Missouri Lead Abatement Loan Fund . . . . . 76,000

From Missouri Public Health Services Fund. . . . . 1,019,750

From Head Injury Fund. . . . . 1,149,900

For the purpose of applying for federal grants and appropriations under  
the federal Patient Protection and Affordable Care Act (PPACA),  
to fund, build infrastructure, promote, and expand school-located  
influenza vaccination programs

From Federal Funds. . . . . 1E



Total. . . . . \$54,800,403

**SECTION 10.650.**— To the Department of Health and Senior Services

For the Division of Community and Public Health

For the purpose of funding supplemental nutrition programs

From Federal Funds. . . . . \$167,828,610E

**SECTION 10.660.**— To the Department of Health and Senior Services

For the Division of Community and Public Health

For the purpose of funding the Primary Care Resource Initiative Program

(PRIMO), Financial Aid to Medical Students, Area Health Education

Centers, and Loan Repayment Programs

From General Revenue Fund. . . . . \$375,000

From Federal Funds . . . . . 174,446

From Health Access Incentive Fund. . . . . 650,000

From Department of Health - Donated Fund. . . . . 839,525

From Professional and Practical Nursing Student Loan and Nurse Loan

Repayment Fund. . . . . 499,752

From Missouri Health Care Access Fund. . . . . 1E

Total. . . . . \$2,538,724

**SECTION 10.665.**— To the Department of Health and Senior Services

For the Division of Community and Public Health

For the Office of Minority Health

For the purpose of funding program operations and support

Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment

From General Revenue Fund. . . . . \$390,549

From Federal Funds. . . . . 198,190

Total (Not to exceed 6.73 F.T.E.). . . . . \$588,739

**SECTION 10.670.**— To the Department of Health and Senior Services

For the Division of Community and Public Health

For the Center for Emergency Response and Terrorism

Personal Service. . . . . \$3,136,731

Expense and Equipment and Program Distribution. . . . . 20,179,535

From Federal Funds (Not to exceed 61.51 F.T.E.). . . . . \$23,316,266

**SECTION 10.675.**— To the Department of Health and Senior Services

For the Division of Community and Public Health

For the purpose of funding the State Public Health Laboratory

Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment

From General Revenue Fund. . . . . \$1,914,859

From Federal Funds . . . . . 1,765,425

From Other Funds. . . . . 5,391,866

Total (Not to exceed 95.01 F.T.E.). . . . . \$9,072,150

**SECTION 10.680.**— To the Department of Health and Senior Services

For the Division of Senior and Disability Services	
For the purpose of funding program operations and support	
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund. . . . .	\$7,685,794
From Federal Funds. . . . .	<u>9,109,786</u>
Total (Not to exceed 398.59 F.T.E.). . . . .	\$16,795,580

**SECTION 10.685.**— To the Department of Health and Senior Services

For the Division of Senior and Disability Services

For the purpose of providing naturalization assistance to refugees and/or legal immigrants who: have resided in Missouri more than five years, are unable to benefit or attend classroom instruction, and who require special assistance to successfully attain the requirements to become a citizen. Services may include direct tutoring, assistance with identifying and completing appropriate waiver requests to the Immigration and Customs Enforcement agency, and facilitating proper documentation. The department shall award a contract under this section to a qualified not-for-profit organization which can demonstrate its ability to work with this population. A report shall be compiled for the general assembly evaluating the program's effectiveness in helping senior refugees and immigrants in establishing citizenship and their ability to qualify individuals for Medicare

From General Revenue Fund. . . . .	\$200,000
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**SECTION 10.690.**— To the Department of Health and Senior Services

For the Division of Senior and Disability Services

For the purpose of funding non-Medicaid reimbursable senior and disability programs, provided that one hundred percent (100%) flexibility is allowed between the non-Medicaid reimbursable senior and disability programs general revenue appropriation and the non-Medicaid, consumer-directed care program general revenue appropriation

From General Revenue Fund. . . . .	\$1,762,422
From Federal Funds . . . . .	<u>1,667,028</u>

For the purpose of funding non-Medicaid, consumer directed in-home services

From General Revenue Fund. . . . .	<u>1,080,096</u>
Total. . . . .	\$4,509,546

**SECTION 10.695.**— To the Department of Health and Senior Services

For the Division of Senior and Disability Services

For the purpose of funding respite care, homemaker chore, personal care, adult day care, AIDS, children's waiver services, home-delivered meals, other related services, and program management under the Medicaid fee-for-service and managed care programs. Provided that individuals eligible for or receiving nursing home care must be given the opportunity to have those Medicaid dollars follow them to the community to the extent necessary to meet their unmet needs as determined by 19 CSR 30 81.030 and further be allowed to choose the personal care program option in the community that best meets

the individuals' unmet needs. This includes the Consumer Directed Medicaid State Plan. And further provided that individuals eligible for the Medicaid Personal Care Option must be allowed to choose, from among all the program options, that option which best meets their unmet needs as determined by 19 CSR 30 81.030; and also be allowed to have their Medicaid funds follow them to the extent necessary to meet their unmet needs whichever option they choose. This language does not create any entitlements not established by statute

From General Revenue Fund. . . . .	\$204,090,950
From Federal Funds . . . . .	377,051,412E
From In-Home Services Gross Receipts Tax Fund. . . . .	1E
Total. . . . .	\$581,142,363

**SECTION 10.700.**— There is transferred out of the State Treasury from the In-Home Services Gross Receipts Tax Fund to the General Revenue Fund as a result of recovering the In-Home Services Gross Receipts Tax

From In-Home Services Gross Receipts Tax Fund. . . . .	\$1E
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**SECTION 10.705.**— There is transferred out of the State Treasury from the General Revenue Fund to the In-Home Services Gross Receipts Tax Fund

From General Revenue Fund. . . . .	\$1E
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**SECTION 10.710.**— To the Department of Health and Senior Services  
For the Division of Senior and Disability Services  
For the purpose of funding Alzheimer's grants

From General Revenue Fund. . . . .	\$150,000
From Federal Funds. . . . .	132,835

For the purpose of funding grants to non-profit organization for services to individuals with Alzheimer's Disease and their caregivers, and caregiver training programs which includes in-home visits and has proven to reduce state health care costs and delayed institutionalization

From General Revenue Fund. . . . .	250,000
Total. . . . .	\$532,835

**SECTION 10.715.**— To the Department of Health and Senior Services  
For the Division of Senior and Disability Services  
For the purpose of funding Home and Community Services grants, including funding for meals to be distributed to each Area Agency on Aging in proportion to the actual number of meals served during the preceding fiscal year, provided that at least \$500,000 of existing general revenue be used for non-Medicaid meals to be distributed to each Area Agency on Aging in proportion to the actual number of meals served during the preceding fiscal year

From General Revenue Fund. . . . .	\$9,000,000
From Federal Funds . . . . .	31,536,227E
From Elderly Home-Delivered Meals Trust Fund. . . . .	100,000
Total. . . . .	\$40,636,227

**SECTION 10.720.**— To the Department of Health and Senior Services

For the Division of Senior and Disability Services

For distributions to Area Agencies on Aging pursuant to the Older Americans

Act and related programs

From General Revenue Fund. . . . . \$1,447,813

**SECTION 10.725.**— To the Department of Health and Senior Services

For the Division of Senior and Disability Services

For the purpose of funding Naturally Occurring Retirement Communities

From General Revenue Fund. . . . . \$127,500

**SECTION 10.735.**— To the Department of Health and Senior Services

For the Division of Regulation and Licensure

For the purpose of funding program operations and support

Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment

From General Revenue Fund. . . . . \$8,499,899

From Federal Funds . . . . . 11,915,047

From Nursing Facility Quality of Care Fund . . . . . 2,159,158

Personal Service. . . . . 72,171

Expense and Equipment. . . . . 11,450

From Health Access Incentive Fund. . . . . 83,621

Personal Service. . . . . 61,387

Expense and Equipment. . . . . 13,560

From Mammography Fund. . . . . 74,947

Personal Service. . . . . 206,785

Expense and Equipment. . . . . 57,561

From Early Childhood Development, Education and Care Fund. . . . . 264,346

For nursing home quality initiatives

From Nursing Facility Federal Reimbursement Allowance Fund.. . . . 725,000

Total (Not to exceed 466.96 F.T.E.). . . . . \$23,722,018

**SECTION 10.740.**— To the Department of Health and Senior Services

For the Division of Regulation and Licensure

For the purpose of funding activities to improve the quality of childcare,  
increase the availability of early childhood development programs,  
before- and after-school care, in-home services for families with  
newborn children, and for general administration of the program

From Federal Funds. . . . . \$711,675

**SECTION 10.745.**— To the Department of Health and Senior Services

For the Division of Regulation and Licensure

For the purpose of funding program operations and support for the

Missouri Health Facilities Review Committee

Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between

personal service and expense and equipment  
 From General Revenue Fund (Not to exceed 2.00 F.T.E.)..... \$134,616

**Department of Mental Health Totals**

General Revenue Fund..... \$563,509,258  
 Federal Funds..... 632,094,832  
 Other Funds..... 42,469,399  
 Total..... \$1,238,073,489

**Department of Health and Senior Services Totals**

General Revenue Fund..... \$260,631,836  
 Federal Funds..... 697,909,685  
 Other Funds..... 18,676,450  
 Total..... \$977,217,971

Approved June 10, 2011

**HB 11 [CCS SCS HCS HB 11]**

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**APPROPRIATIONS: DEPARTMENT OF SOCIAL SERVICES.**

AN ACT to appropriate money for the expenses, grants, and distributions of the Department of Social Services and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2011 and ending June 30, 2012; provided that no funds from these sections shall be expended for the purpose of costs associated with travel or staffing for the offices of the Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, or Attorney General.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2011 and ending June 30, 2012 as follows:

**SECTION 11.005.** — To the Department of Social Services

For the Office of the Director

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment  
 From General Revenue Fund..... \$277,241  
 From Federal Funds..... 11,832  
 From Child Support Enforcement Collections Fund..... 55,693  
 Total (Not to exceed 5.00 F.T.E.)..... \$344,766

**SECTION 11.010.**— To the Department of Social Services

For the Office of the Director

For the purpose of receiving and expending grants, donations, contracts,  
and payments from private, federal, and other governmental agencies  
which may become available between sessions of the General Assembly  
provided that the General Assembly shall be notified of the source of any  
new funds and the purpose for which they shall be expended, in writing,  
prior to the use of said funds

From Federal and Other Funds. . . . . \$5,954,958E

**SECTION 11.015.**— To the Department of Social Services

For the Office of the Director

For the Human Resources Center

Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment

From General Revenue Fund. . . . . \$298,682

From Federal Funds. . . . . 227,144

Total (Not to exceed 11.52 F.T.E.). . . . . \$525,826

**SECTION 11.020.**— To the Department of Social Services

For the Office of the Director

For the purpose of funding field and line training

Expense and Equipment

From General Revenue Fund. . . . . \$109,760

From Federal Funds. . . . . 131,840

Total. . . . . \$241,600

**SECTION 11.025.**— To the Department of Social Services

For the Office of the Director

For the Missouri Medicaid Audit and Compliance Unit

Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment

From General Revenue Fund. . . . . \$1,668,743

From Federal Funds . . . . . 2,991,388

From Recovery Audit and Compliance Fund. . . . . 422,643

Total (Not to exceed 82.00 F.T.E.). . . . . \$5,082,774

**SECTION 11.027.**— To the Department of Social Services

For the Office of the Director

For the Missouri Medicaid Audit and Compliance Unit

For the purpose of funding a case management system and a provider  
enrollment system

From General Revenue Fund. . . . . \$413,500

From Federal Funds . . . . . 1,586,500

Total. . . . . \$2,000,000

**SECTION 11.030.**— To the Department of Social Services

For the Office of the Director

For the purpose of funding recovery audit services

From Recovery Audit and Compliance Fund. . . . . \$500,000E

**SECTION 11.033.**— To the Department of Social Services

For the Office of the Director

For the purpose of funding Medicaid payment error prevention measures, including but not limited to provider education about MO HealthNet payment standards and practices, provided that, such expenditures shall not exceed \$5,000,000 and such funding shall be contingent on the availability of funds in the Recovery Audit and Compliance Fund after the expenditure of monies from such fund pursuant to sections 11.025 and 11.030

From Recovery Audit and Compliance Fund. . . . . \$5,000,000

**SECTION 11.035.**— To the Department of Social Services

For the Division of Finance and Administrative Services

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. . . . . \$2,408,553

From Federal Funds . . . . . 1,282,679

From Department of Social Services Administrative Trust Fund . . . . . 4,283

From Child Support Enforcement Collections Fund. . . . . 60,849

For the purpose of funding the centralized inventory system, for reimbursable goods and services provided by the department, and for related equipment replacement and maintenance expenses

From Department of Social Services Administrative Trust Fund . . . . . 1,500,000E

Total (Not to exceed 73.00 F.T.E.).. . . . \$5,256,364

**SECTION 11.040.**— To the Department of Social Services

For the Division of Finance and Administrative Services

For the payment of fees to contractors who engage in revenue maximization projects on behalf of the Department of Social Services

From Federal Funds. . . . . \$250,000E

**SECTION 11.045.**— To the Department of Social Services

For the Division of Finance and Administrative Services

For the purpose of funding the receipt and disbursement of refunds and incorrectly deposited receipts to allow the over-collection of accounts receivables to be paid back to the recipient

From Federal and Other Funds. . . . . \$2,500,000E

**SECTION 11.050.**— To the Department of Social Services

For the Division of Finance and Administrative Services

For the purpose of funding payments to counties and the City of St. Louis toward the care and maintenance of each delinquent or dependent child as provided in Section 211.156, RSMo

From General Revenue Fund. . . . . \$2,100,000

**SECTION 11.055.**— To the Department of Social Services

For the Division of Legal Services

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. . . . .	\$1,521,033
From Federal Funds . . . . .	3,588,380
From Third Party Liability Collections Fund . . . . .	668,140
From Child Support Enforcement Collections Fund. . . . .	166,003
Total (Not to exceed 120.97 F.T.E.). . . . .	<u>\$5,943,556</u>

**SECTION 11.060.**— To the Department of Social Services

For the Family Support Division

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. . . . .	\$658,061
From Federal Funds . . . . .	18,834,215
From Child Support Enforcement Collections Fund. . . . .	1,497,550
Total (Not to exceed 167.95 F.T.E.). . . . .	<u>\$20,989,826</u>

**SECTION 11.065.**— To the Department of Social Services

For the Family Support Division

For the income maintenance field staff and operations

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. . . . .	\$21,251,018
From Federal Funds . . . . .	62,951,088
From Child Support Enforcement Collections Fund. . . . .	598,928
From Health Initiatives Fund. . . . .	792,579
Total (Not to exceed 2,418.15 F.T.E.). . . . .	<u>\$85,593,613</u>

**SECTION 11.070.**— To the Department of Social Services

For the Family Support Division

For income maintenance and child support staff training

From General Revenue Fund. . . . .	\$224,452
From Federal Funds. . . . .	136,449
Total. . . . .	<u>\$360,901</u>

**SECTION 11.075.**— To the Department of Social Services

For the Family Support Division

For the purpose of funding the electronic benefit transfers (EBT) system

Expense and Equipment

From General Revenue Fund. . . . .	\$3,754,203
From Federal Funds. . . . .	5,311,533
Total. . . . .	<u>\$9,065,736</u>

**SECTION 11.080.**— To the Department of Social Services

For the Family Support Division

For the purpose of funding the receipt of funds from the Polk County and Bolivar Charitable Trust for the exclusive benefit and use of the Polk County Office



From Family Support and Children's Divisions Donations Fund. . . . . \$10,000E

**SECTION 11.085.**— To the Department of Social Services

For the Family Support Division

For the purpose of funding contractor, hardware, and other costs associated  
with planning, development, and implementation of a Family Assistance  
Management Information System (FAMIS)

From General Revenue Fund. . . . . \$1,114,892

From Federal Funds. . . . . 3,222,371

Total. . . . . \$4,337,263

**SECTION 11.090.**— To the Department of Social Services

For the Family Support Division

For the purpose of funding Community Partnerships

Personal Service

From General Revenue Fund. . . . . \$93,124

For grants and contracts to Community Partnerships and other community  
initiatives and related expenses

From General Revenue Fund. . . . . 523,800

From Federal Funds . . . . . 7,483,799

For the Missouri Mentoring Partnership

From General Revenue Fund. . . . . 510,000

From Federal Funds . . . . . 785,000

For the purpose of funding a program for adolescent boys with the goal  
of preventing teen pregnancies

From Federal Funds. . . . . 195,840

Total (Not to exceed 2.00 F.T.E.). . . . . \$9,591,563

**SECTION 11.095.**— To the Department of Social Services

For the Family Support Division

For the purpose of funding the Family Nutrition Education Program

From Federal Funds. . . . . \$9,294,560

**SECTION 11.100.**— To the Department of Social Services

For the Family Support Division

For the purpose of funding Temporary Assistance for Needy Families (TANF)

benefits; transitional benefits; and for work support programs to help  
increase TANF work participation provided that total funding herein  
is sufficient to fund TANF benefits

From General Revenue Fund. . . . . \$8,358,297

From Federal Funds . . . . . 115,445,760E

Total. . . . . \$123,804,057

**SECTION 11.105.**— To the Department of Social Services

For the Family Support Division

For the purpose of funding supplemental payments to aged or disabled persons

From General Revenue Fund. . . . . \$51,665

**SECTION 11.110.**— To the Department of Social Services  
For the Family Support Division  
For the purpose of funding nursing care payments to aged, blind, or disabled  
persons, and for personal funds to recipients of Supplemental Nursing  
Care payments as required by Section 208.030, RSMo  
From General Revenue Fund. . . . . \$25,807,581

**SECTION 11.115.**— To the Department of Social Services  
For the Family Support Division  
For the purpose of funding Blind Pension and supplemental payments to  
blind persons  
From Blind Pension Fund. . . . . \$33,184,914

**SECTION 11.120.**— To the Department of Social Services  
For the Family Support Division  
For the purpose of funding benefits and services as provided by the  
Indochina Migration and Refugee Assistance Act of 1975 as amended  
From Federal Funds. . . . . \$3,808,853

**SECTION 11.125.**— To the Department of Social Services  
For the Family Support Division  
For the purpose of funding community services programs provided by  
Community Action Agencies, including programs to assist the homeless,  
under the provisions of the Community Services Block Grant  
From Federal Funds. . . . . \$19,144,171

**SECTION 11.130.**— To the Department of Social Services  
For the Family Support Division  
For the purpose of funding grants for local initiatives to assist the homeless  
From Federal Funds. . . . . \$500,000

**SECTION 11.135.**— To the Department of Social Services  
For the Family Support Division  
For the purpose of funding the Emergency Shelter Grant Program  
From Federal Funds. . . . . \$1,880,000

**SECTION 11.140.**— To the Department of Social Services  
For the Family Support Division  
For the purpose of funding the Surplus Food Distribution Program and the  
receipt and disbursement of Donated Commodities Program payments  
From Federal Funds. . . . . \$1,500,000

**SECTION 11.145.**— To the Department of Social Services  
For the Family Support Division  
For the purpose of funding the Low-Income Home Energy Assistance Program  
From Federal Funds (Not to exceed 6.50 F.T.E.). . . . . \$40,826,051E

**SECTION 11.150.**— To the Department of Social Services  
For the Family Support Division  
For the purpose of funding services and programs to assist victims of

domestic violence	
From General Revenue Fund. . . . .	\$4,750,000
From Federal Funds. . . . .	<u>1,787,653</u>
Total. . . . .	\$6,537,653

**SECTION 11.155.**— To the Department of Social Services

For the Family Support Division

For the purpose of funding administration of blind services

Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment

From General Revenue Fund. . . . .	\$30,201
From Federal Funds . . . . .	3,626,073
From Blind Pension Fund. . . . .	<u>1,109,455</u>
Total (Not to exceed 111.07 F.T.E.).. . . .	\$4,765,729

**SECTION 11.160.**— To the Department of Social Services

For the Family Support Division

For the purpose of funding services for the visually impaired

From Federal Funds. . . . .	\$6,372,075
From Blind Pension Fund. . . . .	1,737,081
From Family Support and Children's Divisions Donations Fund. . . . .	99,995
From Blindness Education, Screening and Treatment Program Fund. . . . .	<u>349,000</u>
Total. . . . .	\$8,558,151

**SECTION 11.165.**— To the Department of Social Services

For the Family Support Division

For the purpose of supporting business enterprise programs for the blind

From Federal Funds. . . . .	\$30,000,000E
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**SECTION 11.170.**— To the Department of Social Services

For the Family Support Division

For the purpose of funding Child Support Enforcement field staff and operations

Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment

From General Revenue Fund. . . . .	\$2,570,446
From Federal Funds . . . . .	24,252,430
From Child Support Enforcement Collections Fund. . . . .	<u>8,712,421</u>
Total (Not to exceed 781.24 F.T.E.).. . . .	\$35,535,297

**SECTION 11.175.**— To the Department of Social Services

For the Family Support Division

For the purpose of funding reimbursement to counties and the City of St. Louis

and contractual agreements with local governments providing child support  
enforcement services and for incentive payments to local governments

From General Revenue Fund. . . . .	\$2,449,994
From Federal Funds . . . . .	14,886,582E
From Child Support Enforcement Collections Fund. . . . .	<u>1,263,424</u>
Total. . . . .	\$18,600,000

**SECTION 11.180.**— To the Department of Social Services

For the Family Support Division

For the purpose of funding reimbursements to the federal government for  
federal Temporary Assistance for Needy Families payments, incentive  
payments to other states, refunds of bonds, refunds of support payments  
or overpayments, and distributions to families

From Federal Funds. . . . .	\$31,500,000E
From Debt Offset Escrow Fund. . . . .	<u>9,000,000E</u>
Total. . . . .	\$40,500,000

**SECTION 11.185.**— There is transferred out of the State Treasury from the  
Debt Offset Escrow Fund to the Department of Social Services Federal  
and Other Fund and/or the Child Support Enforcement Collections Fund

From Debt Offset Escrow Fund. . . . .	\$700,000E
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**SECTION 11.190.**— To the Department of Social Services

For the Children's Division

Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment

From General Revenue Fund. . . . .	\$879,683
From Federal Funds . . . . .	5,818,665
From Early Childhood Development, Education and Care Fund. . . . .	56,139

Expense and Equipment

From Third Party Liability Collections Fund. . . . .	<u>50,000</u>
Total (Not to exceed 99.80 F.T.E.). . . . .	\$6,804,487

**SECTION 11.195.**— To the Department of Social Services

For the Children's Division

For the Children's Division field staff and operations

Personal Service and/or Expense and Equipment, provided that not  
more than twenty-five percent (25%) flexibility is allowed between  
personal service and expense and equipment

From General Revenue Fund. . . . .	\$30,580,502
From Federal Funds . . . . .	46,457,579
From Health Initiatives Fund. . . . .	<u>96,866</u>
Total (Not to exceed 1,960.73 F.T.E.). . . . .	\$77,134,947

**SECTION 11.200.**— To the Department of Social Services

For the Children's Division

For Children's Division staff training

From General Revenue Fund. . . . .	\$761,528
From Federal Funds. . . . .	<u>384,041</u>
Total. . . . .	\$1,145,569

**SECTION 11.205.**— To the Department of Social Services

For the Children's Division

For the purpose of funding children's treatment services including, but not  
limited to, home-based services, day treatment services, preventive services,  
child care, family reunification services, or intensive in-home services

From General Revenue Fund. . . . .	\$9,073,426
From Federal Funds . . . . .	5,699,452

For the purpose of funding crisis care	
From General Revenue Fund. . . . .	2,050,000
From Federal Funds. . . . .	1E
Total. . . . .	\$16,822,879

**SECTION 11.210.** — To the Department of Social Services

For the Children's Division

For the purpose of funding grants to community-based programs to strengthen the child welfare system locally to prevent child abuse and neglect and divert children from entering into the custody of the Children's Division	
From General Revenue Fund. . . . .	\$1,190,000

**SECTION 11.215.** — To the Department of Social Services

For the Children's Division

For the purpose of funding placement costs including foster care payments; related services; residential treatment placements and therapeutic treatment services; and for the diversion of children from inpatient psychiatric treatment and services provided through comprehensive, expedited permanency systems of care for children and families	
From General Revenue Fund. . . . .	\$60,512,213
From Federal Funds . . . . .	37,259,958

For the purpose of funding contractual payments for expenses related to training of foster parents	
From General Revenue Fund. . . . .	403,479
From Federal Funds. . . . .	172,920
Total. . . . .	\$98,348,570

**SECTION 11.220.** — To the Department of Social Services

For the Children's Division

For the purpose of funding costs associated with attending post-secondary education including, but not limited to tuition, books, fees, room, and board for current or former foster youth	
From General Revenue Fund. . . . .	\$188,848
From Federal Funds. . . . .	1,050,000
Total. . . . .	\$1,238,848

**SECTION 11.225.** — To the Department of Social Services

For the Children's Division

For the purpose of providing comprehensive case management contracts through community-based organizations as described in Section 210.112, RSMo. The purpose of these contracts shall be to provide a system of care for children living in foster care, independent living, or residential care settings. Services eligible under this provision may include, but are not limited to, case management, foster care, residential treatment, intensive in-home services, family reunification services, and specialized recruitment and training of foster care families	
From General Revenue Fund. . . . .	\$14,529,210

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From Federal Funds. . . . .	9,827,856
Total. . . . .	<u>\$24,357,066</u>

**SECTION 11.230.**— To the Department of Social Services

For the Children's Division

For the purpose of funding Adoption and Guardianship subsidy payments  
and related services

From General Revenue Fund. . . . .	\$56,137,469
From Federal Funds. . . . .	<u>22,710,371</u>
Total. . . . .	<u>\$78,847,840</u>

**SECTION 11.235.**— To the Department of Social Services

For the Children's Division

For the purpose of funding Adoption Resource Centers

From General Revenue Fund. . . . .	\$100,000
From Federal Funds. . . . .	<u>50,000</u>
Total. . . . .	<u>\$150,000</u>

**SECTION 11.240.**— To the Department of Social Services

For the Children's Division

For the purpose of funding independent living placements and transitional  
living services

From General Revenue Fund. . . . .	\$1,690,790
From Federal Funds. . . . .	<u>3,373,228</u>
Total. . . . .	<u>\$5,064,018</u>

**SECTION 11.245.**— To the Department of Social Services

For the Children's Division

For the purpose of funding children's treatment services; alternative care  
placement services; adoption subsidy services; independent living  
services; and services provided through comprehensive, expedited  
permanency systems of care for children and families

From General Revenue Fund. . . . .	\$5,022,385
From Federal Funds. . . . .	<u>6,773,261</u>
Total. . . . .	<u>\$11,795,646</u>

**SECTION 11.250.**— To the Department of Social Services

For the Children's Division

For the purpose of funding Regional Child Assessment Centers

From General Revenue Fund. . . . .	\$1,498,952
From Federal Funds. . . . .	<u>800,000</u>
Total. . . . .	<u>\$2,298,952</u>

**SECTION 11.255.**— To the Department of Social Services

For the Children's Division

For the purpose of funding residential placement payments to counties for  
children in the custody of juvenile courts

From Federal Funds. . . . .	\$400,000
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**SECTION 11.260.**— To the Department of Social Services

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For the Children's Division  
 For the purpose of funding the Child Abuse and Neglect Prevention Grant  
 and Children's Justice Act Grant  
 From Federal Funds. . . . . \$188,316

**SECTION 11.265.**— To the Department of Social Services  
 For the Children's Division  
 For the purpose of funding transactions involving personal funds of  
 children in the custody of the Children's Division  
 From Alternative Care Trust Fund. . . . . \$12,000,000E

**SECTION 11.270.**— To the Department of Social Services  
 For the Children's Division  
 For the purpose of funding child care services, the general administration  
 of the programs, and to support the Educare Program  
 From General Revenue Fund. . . . . \$61,958,162  
 From Federal Funds . . . . . 111,402,702  
 From Early Childhood Development, Education and Care Fund. . . . . 2,676,737

For the purpose of payments to accredited child care providers  
 pursuant to Chapter 313, RSMo  
 From Early Childhood Development, Education and Care Fund. . . . . 3,074,500

For the purpose of funding early childhood start-up and expansion  
 grants pursuant to Chapter 313, RSMo  
 From Early Childhood Development, Education and Care Fund. . . . . 3,689,400

For the purpose of funding early childhood development, education, and  
 care programs for low-income families pursuant to Chapter 313, RSMo  
 From Early Childhood Development, Education and Care Fund. . . . . 3,074,500

For the purpose of funding certificates to low-income, at-home families  
 pursuant to Chapter 313, RSMo  
 From Early Childhood Development, Education and Care Fund. . . . . 3,074,500  
 Total. . . . . \$188,950,501

**SECTION 11.275.**— To the Department of Social Services  
 For the Division of Youth Services  
 For the purpose of funding Central Office and Regional Offices  
 Personal Service and/or Expense and Equipment, provided that not  
 more than twenty-five percent (25%) flexibility is allowed between  
 personal service and expense and equipment  
 From General Revenue Fund. . . . . \$1,404,982  
 From Federal Funds. . . . . 661,878  
 Total (Not to exceed 41.33 F.T.E.).. . . . \$2,066,860

**SECTION 11.280.**— To the Department of Social Services  
 For the Division of Youth Services  
 For the purpose of funding treatment services, including foster care and  
 contractual payments  
 Personal Service and/or Expense and Equipment, provided that not

more than twenty-five percent (25%) flexibility is allowed between  
 personal service and expense and equipment

From General Revenue Fund. . . . .	\$16,711,639
From Federal Funds . . . . .	28,719,367
From DOSS Educational Improvement Fund .. . . .	7,988,138
From Health Initiatives Fund . . . . .	135,503

Expense and Equipment  
 From Youth Services Products Fund. . . . . 1E

For the purpose of paying overtime to nonexempt state employees as required  
 by Section 105.935, RSMo, and/or for otherwise authorized personal  
 service expenditures in lieu of such overtime payments

From General Revenue Fund. . . . .	1,110,391
Total (Not to exceed 1,246.81 F.T.E.). . . . .	\$54,665,039

**SECTION 11.285.**— To the Department of Social Services

For the Division of Youth Services  
 For the purpose of funding incentive payments to counties for  
 community-based treatment programs for youth

From General Revenue Fund. . . . .	\$3,579,486
From Gaming Commission Fund. . . . .	500,000
Total. . . . .	\$4,079,486

**SECTION 11.400.**— To the Department of Social Services

For the MO HealthNet Division  
 For the purpose of funding administrative services  
 Personal Service and/or Expense and Equipment, provided that not  
 more than twenty-five percent (25%) flexibility is allowed between  
 personal service and expense and equipment

From General Revenue Fund. . . . .	\$3,473,535
From Federal Funds . . . . .	8,284,283
From Federal Reimbursement Allowance Fund. . . . .	100,133
From Pharmacy Reimbursement Allowance Fund . . . . .	25,476
From Health Initiatives Fund . . . . .	335,180
From Nursing Facility Quality of Care Fund . . . . .	90,794
From Third Party Liability Collections Fund.. . . .	867,770
From Missouri Rx Plan Fund . . . . .	787,859
From Ambulance Service Reimbursement Allowance Fund. . . . .	20,685
Total (Not to exceed 227.11 F.T.E.). . . . .	\$13,985,715

**SECTION 11.405.**— To the Department of Social Services

For the MO HealthNet Division  
 For the purpose of funding clinical services management related to the  
 administration of the MO HealthNet Pharmacy fee-for-service and  
 managed care programs and administration of the Missouri Rx Plan

From General Revenue Fund. . . . .	\$483,913
From Federal Funds . . . . .	12,215,288
From Third Party Liability Collections Fund.. . . .	924,911
From Missouri Rx Plan Fund. . . . .	4,160,894
Total. . . . .	\$17,785,006



**SECTION 11.410.**— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding women and minority health care outreach programs

From General Revenue Fund. . . . .	\$546,125
From Federal Funds. . . . .	<u>568,625</u>
Total. . . . .	\$1,114,750

**SECTION 11.415.**— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding fees associated with third-party

collections and other revenue maximization cost avoidance fees

From Federal Funds. . . . .	\$1,500,000E
From Third Party Liability Collections Fund. . . . .	<u>1,500,000E</u>
Total. . . . .	\$3,000,000

**SECTION 11.420.**— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding the operation of the information systems

From General Revenue Fund. . . . .	\$4,838,940
From Federal Funds . . . . .	20,846,783

For the purpose of funding the modernization of the Medicaid Management

Information System (MMIS) and the operation of the information systems

From Federal Funds . . . . .	12,033,387
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For Healthcare Technology Incentives

From Federal Funds. . . . .	<u>60,000,000</u>
Total. . . . .	\$97,719,110

**SECTION 11.425.**— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding pharmaceutical payments and program expenses under the MO HealthNet and Missouri Rx Plan authorized by Sections 208.780 through 208.798, RSMo and for Medicare Part D Clawback payments and for administration of these programs. The line item appropriations within this section may be used for any other purpose for which line item funding is appropriated within this section

For the purpose of funding pharmaceutical payments under the MO HealthNet fee-for-service and managed care programs and for the purpose of funding professional fees for pharmacists and for a comprehensive chronic care risk management program

From General Revenue Fund. . . . .	\$142,230,782
From Federal Funds . . . . .	613,983,324
From Life Sciences Research Trust Fund . . . . .	35,556,250
From Pharmacy Rebates Fund . . . . .	104,155,927E
From Third Party Liability Collections Fund. . . . .	5,252,468
From Pharmacy Reimbursement Allowance Fund . . . . .	64,361,960E
From Health Initiatives Fund . . . . .	969,293
From Healthy Families Trust Fund . . . . .	1,041,034
From Premium Fund. . . . .	3,800,000

For the purpose of funding Medicare Part D Clawback payments and for  
funding MO HealthNet pharmacy payments as authorized by the  
provisions of section 11.425

From General Revenue Fund. . . . .	180,575,272
From Federal Funds . . . . .	1E

For the purpose of funding pharmaceutical payments under the Missouri  
Rx Plan authorized by Sections 208.780 through 208.798, RSMo

From Missouri Rx Plan Fund . . . . .	5,781,772E
From Healthy Families Trust Fund. . . . .	13,820,394
Total. . . . .	\$1,171,528,477

**SECTION 11.430.**— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding Pharmacy Reimbursement Allowance payments  
as provided by law

From Pharmacy Reimbursement Allowance Fund. . . . .	\$90,308,926E
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**SECTION 11.435.**— There is transferred out of the State Treasury from the  
General Revenue Fund to the Pharmacy Reimbursement Allowance Fund

From General Revenue Fund. . . . .	\$30,000,000E
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**SECTION 11.440.**— There is transferred out of the State Treasury from the  
Pharmacy Reimbursement Allowance Fund to the General Revenue Fund  
as a result of recovering the Pharmacy Reimbursement Allowance Fund

From Pharmacy Reimbursement Allowance Fund. . . . .	\$30,000,000E
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**SECTION 11.445.**— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding physician services and related services including,  
but not limited to, clinic and podiatry services, telemedicine services,  
physician-sponsored services and fees, laboratory and x-ray services, and  
family planning services under the MO HealthNet fee-for-service and  
managed care programs, and for administration of these programs, and  
for a comprehensive chronic care risk management program and Major  
Medical Prior Authorization

From General Revenue Fund. . . . .	\$207,623,449
From Federal Funds . . . . .	394,012,708
From Third Party Liability Collections Fund. . . . .	1,906,107
From Health Initiatives Fund . . . . .	1,247,544
From Healthy Families Trust Fund. . . . .	1,041,034
Total. . . . .	\$605,830,842

**SECTION 11.450.**— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding dental services under the MO HealthNet fee-for-  
service and managed care programs; provided that the MO HealthNet  
division may implement a state wide dental delivery system to ensure  
participation of, and access to providers in all areas of the state. The  
MO HealthNet division may administer the system or may seek a  
third party experienced in the administration of dental benefits to

administer the program under the supervision of the division	
From General Revenue Fund. . . . .	\$6,486,786
From Federal Funds . . . . .	12,907,120
From Health Initiatives Fund . . . . .	71,162
From Healthy Families Trust Fund. . . . .	848,773
Total. . . . .	<u>\$20,313,841</u>

**SECTION 11.455.**— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding payments to third-party insurers, employers,  
or policyholders for health insurance

From General Revenue Fund. . . . .	\$73,327,895
From Federal Funds. . . . .	133,146,476
Total. . . . .	<u>\$206,474,371</u>

**SECTION 11.460.**— To the Department of Social Services

For the MO HealthNet Division

For funding long-term care services

For the purpose of funding care in nursing facilities or other long-term  
care services under the MO HealthNet fee-for-service and managed  
care programs and for contracted services to develop model policies  
and practices that improve the quality of life for long-term care residents

From General Revenue Fund. . . . .	\$133,598,846
From Federal Funds . . . . .	354,607,642
From Uncompensated Care Fund . . . . .	58,516,478
From Nursing Facility Federal Reimbursement Allowance Fund . . . . .	9,134,756
From Healthy Families Trust Fund . . . . .	17,973
From Third Party Liability Collections Fund. . . . .	2,592,981

For the purpose of funding home health for the elderly, or other long-term  
care services under the MO HealthNet fee-for-service and managed care  
programs

From General Revenue Fund. . . . .	2,531,358
From Federal Funds . . . . .	4,678,833
From Health Initiatives Fund . . . . .	159,305

For the purpose of funding Program for All-Inclusive Care for the Elderly,  
or other long-term care services under the MO HealthNet fee-for-service  
and managed care programs

From General Revenue Fund. . . . .	1,552,734
From Federal Funds. . . . .	3,520,959
Total. . . . .	<u>\$570,911,865</u>

**SECTION 11.465.**— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding all other non-institutional services including,  
but not limited to, rehabilitation, optometry, audiology, ambulance,  
non-emergency medical transportation, durable medical equipment,  
and eyeglasses under the MO HealthNet fee-for-service and managed  
care programs, and for administration of these services, and for  
rehabilitation services provided by residential treatment facilities as

authorized by the Children's Division for children in the care and custody of the Children's Division	
From General Revenue Fund. . . . .	\$81,647,861
From Federal Funds . . . . .	163,405,313
From Nursing Facility Reimbursement Allowance Fund . . . . .	1,414,043
From Health Initiatives Fund . . . . .	194,881
From Healthy Families Trust Fund . . . . .	831,745
From Ambulance Service Reimbursement Allowance Fund. . . . .	10,141,830E
For the purpose of funding non-emergency medical transportation	
From General Revenue Fund. . . . .	10,923,967
From Federal Funds . . . . .	19,459,427
For the purpose of funding the federal share of MO HealthNet reimbursable non-emergency medical transportation for public entities	
From Federal Funds. . . . .	<u>6,460,100</u>
Total. . . . .	\$294,479,167

**SECTION 11.470.**— There is transferred out of the State Treasury from the General Revenue Fund to the Ambulance Service Reimbursement Allowance Fund

From General Revenue Fund. . . . .	\$9,069,225E
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**SECTION 11.475.**— There is transferred out of the State Treasury from the Ambulance Service Reimbursement Allowance Fund to the General Revenue Fund as a result of recovering the Ambulance Service Reimbursement Allowance Fund

From Ambulance Service Reimbursement Allowance Fund. . . . .	\$9,069,225E
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**SECTION 11.480.**— To the Department of Social Services  
For the MO HealthNet Division  
For the purpose of funding the payment to comprehensive prepaid health care plans or for payments to providers of health care services for persons eligible for medical assistance under the MO HealthNet fee-for-service programs or State Medical Program and for administration of these programs as provided by federal or state law or for payments to programs authorized by the Frail Elderly Demonstration Project Waiver as provided by the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508, Section 4744) and by Section 208.152 (16), RSMo

From General Revenue Fund. . . . .	\$303,877,638
From Federal Funds . . . . .	731,080,298
From MO HealthNet Managed Care Organization Reimbursement Allowance Fund. . . . .	1E
From Health Initiatives Fund . . . . .	8,055,080
From Federal Reimbursement Allowance Fund. . . . .	93,533,441
From Healthy Families Trust Fund . . . . .	4,447,110
From Life Sciences Research Trust Fund. . . . .	<u>7,272,544</u>
Total. . . . .	\$1,148,266,112

**SECTION 11.485.**— There is transferred out of the State Treasury from the General Revenue Fund to the MO HealthNet Managed Care Organization

Reimbursement Allowance Fund  
 From General Revenue Fund. . . . . \$1E

**SECTION 11.490.**— There is transferred out of the State Treasury from the  
 MO HealthNet Managed Care Organization Reimbursement Allowance  
 Fund to the General Revenue Fund as a result of recovering the MO  
 HealthNet Managed Care Organization Reimbursement Allowance Fund  
 From MO HealthNet Managed Care Organization Reimbursement Allowance  
 Fund. . . . . \$1E

**SECTION 11.495.**— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding hospital care under the MO HealthNet  
 fee-for-service and managed care programs, and for a comprehensive  
 chronic care risk management program, and for administration of  
 these programs. The MO HealthNet Division shall track payments  
 to out-of-state hospitals by location

From General Revenue Fund. . . . .	\$24,567,406
From Federal Funds . . . . .	552,239,659
From Uncompensated Care Fund . . . . .	33,848,436
From Federal Reimbursement Allowance Fund. . . . .	185,298,958
From Health Initiatives Fund . . . . .	8,997,179
From Third Party Liability Collections Fund. . . . .	1,062,735
From Healthy Families Trust Fund . . . . .	2,365,987

For Safety Net Payments

From Healthy Families Trust Fund . . . . .	30,365,444
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For Graduate Medical Education

From Healthy Families Trust Fund . . . . .	10,000,000
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For the purpose of funding a community-based care coordinating program  
 that includes in-home visits and/or phone contact by a nurse care  
 manager or electronic monitor. The purpose of such program shall be  
 to ensure that patients are discharged from hospitals to an appropriate  
 level of care and services and that targeted MO HealthNet beneficiaries  
 with chronic illnesses and high-risk pregnancies receive care in the most  
 cost-effective setting. The project shall be contingent upon adoption of  
 an offsetting increase in the applicable provider tax and administered by  
 the MO HealthNet Division's Disease Management Program

From Federal Funds . . . . .	200,000
From Federal Reimbursement Allowance Fund. . . . .	200,000

For the purpose of funding hospital care under the MO HealthNet fee-for-  
 service and managed care programs, and funding costs incurred by  
 hospitals for the staffing of the emergency department with MO  
 HealthNet enrolled physicians of Level I, II, III Trauma Centers  
 as defined by the Department of Health and Senior Services and  
 Critical Access Hospitals as defined by the Department of Social  
 Services, MO HealthNet Division, contingent upon adoption of  
 an offsetting increase in the applicable provider tax

From Federal Funds . . . . .	30,000,000E
From Federal Reimbursement Allowance Fund. . . . .	20,000,000E

For the purpose of continuing funding in Southwest Missouri and metropolitan Kansas City Regions of the pager project facilitating medication compliance for chronically ill MO HealthNet participants identified by the division as having high utilization of acute care because of poor management of their condition. The project shall be contingent upon adoption of an offsetting increase in the applicable provider tax and administered by the MO HealthNet Division's Disease Management Program

From Federal Funds . . . . .	215,000
From Federal Reimbursement Allowance Fund. . . . .	215,000
Total. . . . .	\$899,575,804

**SECTION 11.500.**— To the Department of Social Services

For the MO HealthNet Division

For payment to Tier 1 Safety Net Hospitals, by maximizing eligible costs for federal Medicaid funds, utilizing current state and local funding sources as match for services that are not currently matched with federal Medicaid payments

From Federal Funds. . . . .	\$8,000,000E
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**SECTION 11.505.**— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding grants to Federally Qualified Health Centers

From General Revenue Fund. . . . .	\$4,020,000
From Federal Funds. . . . .	9,000,000E
Total. . . . .	\$13,020,000

**SECTION 11.507.**— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding medical homes affiliated with public entities

From Department of Social Services Intergovernmental Transfer Fund. . . . .	\$1,000,000E
From Federal Funds. . . . .	9,000,000E
Total. . . . .	\$10,000,000

**SECTION 11.510.**— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding payments to hospitals under the Federal Reimbursement Allowance Program including state costs to pay for an independent audit of DSH payments as required by CMS and for the expenses of the Poison Control Center in order to provide services to all hospitals within the state

From Federal Reimbursement Allowance Fund. . . . .	\$878,929,394E
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**SECTION 11.515.**— To the Department of Social Services

There is hereby transferred out of the State Treasury, chargeable to the Department of Social Services Intergovernmental Transfer Fund to the General Revenue Fund for the purpose of providing the state match for Medicaid payments

From Department of Social Services Intergovernmental Transfer Fund. . . . . \$82,200,000E

**SECTION 11.520.**— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding payments to the Tier 1 Safety Net Hospitals  
and other public hospitals using intergovernmental transfers

From Department of Social Services Intergovernmental Transfer Fund. . . . . \$70,348,801E

From Federal Funds . . . . . 129,505,748E

Total. . . . . \$199,854,549

**SECTION 11.525.**— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding payments to the Department of Mental Health

From Department of Social Services Intergovernmental Transfer Fund. . . . . \$65,731,662E

From Federal Funds . . . . . 112,898,554E

Total. . . . . \$178,630,216

**SECTION 11.530.**— To the Department of Social Services

For the MO HealthNet Division

For funding extended women's health services using fee-for-service,  
prepaid health plans, or other alternative service delivery and  
reimbursement methodology approved by the director of the  
Department of Social Services

From General Revenue Fund. . . . . \$1,845,337

From Federal Funds . . . . . 9,027,050

From Federal Reimbursement Allowance Fund. . . . . 167,756

From Pharmacy Reimbursement Allowance Fund . . . . . 49,034

For the purpose of funding health care services provided to uninsured  
adults through local initiatives for the uninsured

From Federal and Other Funds. . . . . 1E

Total. . . . . \$11,089,178

**SECTION 11.535.**— To the Department of Social Services

For the MO HealthNet Division

For funding programs to enhance access to care for uninsured children  
using fee-for-services, prepaid health plans, or other alternative service  
delivery and reimbursement methodology approved by the director of  
the Department of Social Services. Provided that families of children  
receiving services under this section shall pay the following premiums  
to be eligible to receive such services: zero percent on the amount of a  
family's income which is less than 150 percent of the federal poverty  
level; four percent on the amount of a family's income which is less  
than 185 percent of the federal poverty level but greater than 150  
percent of the federal poverty level; eight percent of the amount on a  
family's income which is less than 225 percent of the federal poverty  
level but greater than 185 percent of the federal poverty level;  
fourteen percent on the amount of a family's income which is less  
than 300 percent of the federal poverty level but greater than 225  
percent of the federal poverty level not to exceed five percent of  
total income. Families with an annual income of more than 300

percent of the federal poverty level are ineligible for this program	
From General Revenue Fund. . . . .	\$27,758,255
From MO HealthNet Managed Care Organization Reimbursement Allowance Fund. . . . .	1E
From Federal Funds . . . . .	132,983,811
From Federal Reimbursement Allowance Fund. . . . .	7,719,204
From Health Initiatives Fund . . . . .	5,375,576
From Pharmacy Rebates Fund . . . . .	225,430
From Pharmacy Reimbursement Allowance Fund . . . . .	907,611
From Premium Fund. . . . .	2,592,452
From Life Sciences Research Trust Fund. . . . .	171,206
Total. . . . .	\$177,733,546

**SECTION 11.540.**— There is transferred out of the State Treasury from the General Revenue Fund to the Federal Reimbursement Allowance Fund

From General Revenue Fund. . . . .	\$450,000,000E
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**SECTION 11.545.**— There is transferred out of the State Treasury from the Federal Reimbursement Allowance Fund to the General Revenue Fund as a result of recovering the Federal Reimbursement Allowance Fund

From Federal Reimbursement Allowance Fund. . . . .	\$450,000,000E
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**SECTION 11.550.**— There is transferred out of the State Treasury from the General Revenue Fund to the Nursing Facility Federal Reimbursement Allowance Fund

From General Revenue Fund. . . . .	\$120,000,000E
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**SECTION 11.555.**— There is transferred out of the State Treasury from the Nursing Facility Federal Reimbursement Allowance Fund to the General Revenue Fund as a result of recovering the Nursing Facility Federal Reimbursement Allowance Fund

From Nursing Facility Federal Reimbursement Allowance Fund.. . . .	\$120,000,000E
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**SECTION 11.560.**— There is transferred out of the State Treasury from the Nursing Facility Federal Reimbursement Allowance Fund to the Nursing Facility Quality of Care Fund

From Nursing Facility Federal Reimbursement Allowance Fund.. . . .	\$1,500,000
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**SECTION 11.565.**— To the Department of Social Services  
For the MO HealthNet Division  
For the purpose of funding Nursing Facility Federal Reimbursement Allowance payments as provided by law

From Nursing Facility Federal Reimbursement Allowance Fund.. . . .	\$235,091,756E
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**SECTION 11.570.**— To the Department of Social Services  
For the MO HealthNet Division  
For the purpose of funding MO HealthNet services for the Department of Elementary and Secondary Education under the MO HealthNet fee-for-service and managed care programs



From General Revenue Fund. . . . .	\$69,954
From Federal Funds . . . . .	<u>54,653,770E</u>
Total. . . . .	\$54,723,724

**SECTION 11.575.** — To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding medical benefits for recipients of the state  
medical programs, including coverage in managed care programs

From General Revenue Fund. . . . .	\$31,977,873
From Pharmacy Reimbursement Allowance Fund . . . . .	1,460,328
From Health Initiatives Fund. . . . .	<u>353,437</u>
Total. . . . .	\$33,791,638

**SECTION 11.580.** — To the Department of Social Services

For the MO HealthNet Division

For the purpose of supplementing appropriations for any medical service  
and expense under the MO HealthNet fee-for-service, managed care,  
or state medical programs, including related services, provided that,  
funding from the Recovery and Compliance Fund shall be contingent  
on the availability of monies in such fund after the expenditure of  
monies from such fund pursuant to sections 11.025, 11.030, and 11.033

From Federal Funds. . . . .	\$24,107,486
From Premium Fund. . . . .	3,837,940
From Third Party Liability Collections Fund. . . . .	7,571,156
From Uncompensated Care Fund . . . . .	1
From Federal Reimbursement Allowance Fund. . . . .	1
From Recovery Audit and Compliance Fund. . . . .	1E
From Nursing Facility Federal Reimbursement Allowance Fund. . . . .	<u>181,500</u>
Total. . . . .	\$35,698,085

**Bill Totals**

General Revenue Fund. . . . .	\$1,594,286,317
Federal Funds. . . . .	4,326,035,467
Other Funds. . . . .	<u>2,203,530,740</u>
Total. . . . .	\$8,123,852,524

Approved June 10, 2011

**HB 12 [CCS SCS HCS HB 12]****EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**APPROPRIATIONS:** CHIEF EXECUTIVE'S OFFICE AND MANSION, LIEUTENANT GOVERNOR, SECRETARY OF STATE, STATE AUDITOR, STATE TREASURER, ATTORNEY GENERAL, MISSOURI PROSECUTING ATTORNEYS AND CIRCUIT ATTORNEYS RETIREMENT SYSTEMS, JUDICIARY, OFFICE OF STATE PUBLIC DEFENDER, GENERAL ASSEMBLY, MISSOURI COMMISSION ON INTERSTATE COOPERATION, COMMITTEE ON LEGISLATIVE RESEARCH, VARIOUS JOINT COMMITTEES, AND INTERIM COMMITTEES.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Chief Executive's Office and Mansion, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, Attorney General, Missouri Prosecuting Attorneys and Circuit Attorneys Retirement Systems, and the Judiciary and the Office of the State Public Defender, and the several divisions and programs thereof, and for the payment of salaries and mileage of members of the State Senate and the House of Representatives and contingent expenses of the General Assembly, including salaries and expenses of elective and appointive officers and necessary capital improvements expenditures; for salaries and expenses of members and employees and other necessary operating expenses of the Missouri Commission on Interstate Cooperation, the Committee on Legislative Research, various joint committees, for the expenses of the interim committees established by the General Assembly, and to transfer money among certain funds, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the period beginning July 1, 2011 and ending June 30, 2012.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated, for the period beginning July 1, 2011 and ending June 30, 2012 as follows:

**SECTION 12.005.**— To the Governor

Personal Service and/or Expense and Equipment. . . . .	\$2,140,418
Personal Service and/or Expense and Equipment for the Mansion. . . . .	97,515
From General Revenue Fund (Total not to exceed 38.00 F.T.E.).. . . .	\$2,237,933

**SECTION 12.010.**— To the Governor

For expenses incident to emergency duties performed by the National Guard  
when ordered out by the Governor  
From General Revenue Fund. . . . . \$1E

**SECTION 12.015.**— To the Governor

For conducting special audits  
From General Revenue Fund. . . . . \$30,000

**SECTION 12.020.**— To the Governmental Emergency Fund Committee

For allocation by the committee to state agencies that qualify for emergency  
or supplemental funds under the provisions of Section 33.720, RSMo  
From General Revenue Fund. . . . . \$1E

**SECTION 12.025.**— To the Lieutenant Governor

Personal Service and/or Expense and Equipment	
From General Revenue Fund (Total not to exceed 8.50 F.T.E.).. . . .	\$407,557

**SECTION 12.035.**— To the Secretary of State

Personal Service and/or Expense and Equipment	
From General Revenue Fund. . . . .	\$9,054,507
From Federal and Other Funds . . . . .	856,639
From Secretary of State's Technology Trust Fund Account.. . . .	3,407,189
From Local Records Preservation Fund . . . . .	1,562,485

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From Secretary of State - Wolfner State Library Fund . . . . .	14,501
From Investor Education and Protection Fund. . . . .	1,195,894
From Election Administration Improvements Fund . . . . .	261,191
From National Endowment for the Humanities Save America's Treasures Grant. . . . .	241,949
Total (Total not to exceed 280.30 F.T.E.). . . . .	<u>\$16,594,355</u>

**SECTION 12.040.**— To the Secretary of State

For the purpose of receiving and expending grants, donations, contracts,  
and payments from private, federal, or other governmental agencies  
provided that the General Assembly shall be notified of the source  
of any new funds and the purpose for which they will be expended,  
in writing, prior to the expenditure of said funds

From Federal and Other Funds. . . . . \$200,000E

**SECTION 12.045.**— To the Secretary of State

For refunds of securities, corporations, uniform commercial code, and  
miscellaneous collections of the Secretary of State's Office

From General Revenue Fund. . . . . \$50,000E

**SECTION 12.050.**— To the Secretary of State

For reimbursement to victims of securities fraud and other violations  
pursuant to Section 409.407, RSMo

From Investors Restitution Fund. . . . . \$55,000E

**SECTION 12.055.**— To the Secretary of State

For expenses of initiative referendum and constitutional amendments

From General Revenue Fund. . . . . \$100,000E

**SECTION 12.060.**— To the Secretary of State

For election costs associated with absentee ballots

From General Revenue Fund. . . . . \$50,000E

**SECTION 12.065.**— To the Secretary of State

For costs associated with providing provisional ballots and voter  
registration applications

From General Revenue Fund. . . . . \$21,395

**SECTION 12.070.**— To the Secretary of State

For election reform grants, transactions costs, election administration  
improvements within Missouri, and support of Help America Vote  
Act activities

From Federal and Other Funds. . . . . \$9,363,785E

**SECTION 12.075.**— There is transferred out of the State Treasury, chargeable  
to the General Revenue Fund such amounts as may become necessary,  
to the State Elections Subsidy Fund

From General Revenue Fund. . . . . \$4,284,000E

**SECTION 12.080.**— To the Secretary of State

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For the state's share of special election costs as required by Chapter 115, RSMo  
From State Elections Subsidy Fund. . . . . \$400,000E

**SECTION 12.085.**— There is transferred out of the State Treasury, chargeable  
to the State Elections Subsidy Fund, to the Election Administration  
Improvements Fund  
From State Elections Subsidy Fund. . . . . \$3,784,000E

**SECTION 12.090.**— To the Secretary of State  
For historical repository grants  
From Federal Funds. . . . . \$15,000E

**SECTION 12.095.**— To the Secretary of State  
For local records preservation grants  
From Local Records Preservation Fund. . . . . \$400,000E

**SECTION 12.100.**— To the Secretary of State  
For preserving legal, historical, and genealogical materials and making  
them available to the public  
From State Document Preservation Fund. . . . . \$2E

For costs related to establishing and operating a St. Louis Record Center  
From Missouri State Archives - St. Louis Trust Fund . . . . . 1E  
Total. . . . . \$3

**SECTION 12.105.**— To the Secretary of State  
For aid to public libraries  
From General Revenue Fund. . . . . \$3,604,001

**SECTION 12.110.**— To the Secretary of State  
For the Remote Electronic Access for Libraries (REAL) Program  
From General Revenue Fund. . . . . \$3,109,250

**SECTION 12.115.**— To the Secretary of State  
For the Literacy Investment for Tomorrow (LIFT) Program  
From General Revenue Fund. . . . . \$69,450

**SECTION 12.120.**— To the Secretary of State  
For all allotments, grants, and contributions from the federal government or  
from any sources that may be deposited in the State Treasury for the  
use of the Missouri State Library  
From Federal Funds. . . . . \$2,750,000E

**SECTION 12.125.**— To the Secretary of State  
For library networking grants and other grants and donations  
From Library Networking Fund. . . . . \$450,000E

**SECTION 12.145.**— To the State Auditor  
Personal Service and/or Expense and Equipment  
From General Revenue Fund. . . . . \$6,658,762

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From Federal Funds . . . . .	879,116
From Conservation Commission Fund. . . . .	45,651
From Parks Sales Tax Fund. . . . .	21,496
From Soil and Water Sales Tax Fund. . . . .	20,728
From Petition Audit Revolving Trust Fund. . . . .	844,350
Total (Total not to exceed 168.77 F.T.E.). . . . .	<u>\$8,470,103</u>

**SECTION 12.150.**— To the State Treasurer

Personal Service and/or Expense and Equipment

From State Treasurer's General Operations Fund. . . . .	\$1,825,414
From Central Check Mailing Service Revolving Fund. . . . .	247,978E

For Unclaimed Property Division administrative costs including personal  
service, expense and equipment for auctions, advertising, and promotions

From Abandoned Fund Account. . . . .	841,001E
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For preparation and dissemination of information or publications, or for  
refunding overpayments

From Treasurer's Information Fund. . . . .	8,000
Total (Total not to exceed 49.40 F.T.E.). . . . .	<u>\$2,922,393</u>

**SECTION 12.155.**— To the State Treasurer

For issuing duplicate checks or drafts and outlawed checks as provided by law

From General Revenue Fund. . . . .	\$1,000,000E
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**SECTION 12.160.**— To the State TreasurerFor payment of claims for abandoned property transferred by holders  
to the state

From Abandoned Fund Account. . . . .	\$22,500,000E
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**SECTION 12.165.**— To the State TreasurerFor transfer of such sums as may be necessary to make payment of claims  
from the Abandoned Fund Account pursuant to Chapter 447, RSMo

From General Revenue Fund. . . . .	\$1E
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**SECTION 12.170.**— To the State TreasurerThere is transferred out of the State Treasury, chargeable to the Abandoned  
Fund Account, to the General Revenue Fund

From Abandoned Fund Account. . . . .	\$30,000,000E
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**SECTION 12.175.**— To the State Treasurer

For refunds of excess interest from the Linked Deposit Program

From General Revenue Fund. . . . .	\$100E
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**SECTION 12.180.**— To the State TreasurerThere is transferred out of the State Treasury, chargeable to the Debt  
Offset Escrow Fund, to the General Revenue Fund

From Debt Offset Escrow Fund. . . . .	\$100,000E
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**SECTION 12.185.**— To the State Treasurer

There is transferred out of the State Treasury, chargeable to various funds,  
to the General Revenue Fund

From Various Funds. . . . . \$1E

**SECTION 12.190.**— To the State Treasurer

There is transferred out of the State Treasury, chargeable to the Abandoned  
Fund Account, to the State Public School Fund

From Abandoned Fund Account. . . . . \$1,500,000E

**SECTION 12.195.**— To the Attorney General

Personal Service and/or Expense and Equipment

From General Revenue Fund. . . . .	\$12,766,540
From Federal Funds . . . . .	2,556,077
From Gaming Commission Fund. . . . .	140,029
From Natural Resources Protection Fund - Water Pollution Permit Fee Subaccount. . .	41,327
From Solid Waste Management Fund . . . . .	41,827
From Petroleum Storage Tank Insurance Fund . . . . .	25,108
From Motor Vehicle Commission Fund . . . . .	49,467
From Health Spa Regulatory Fund. . . . .	5,000
From Natural Resources Protection Fund - Air Pollution Permit Fee Subaccount. . . .	41,302
From Attorney General's Court Costs Fund . . . . .	187,000
From Soil and Water Sales Tax Fund . . . . .	14,464
From Merchandising Practices Revolving Fund. . . . .	2,566,162
From Workers' Compensation Fund. . . . .	468,101
From Workers' Compensation - Second Injury Fund. . . . .	3,019,071
From Lottery Enterprise Fund . . . . .	55,256
From Attorney General's Anti-Trust Fund. . . . .	624,232
From Hazardous Waste Fund. . . . .	298,481
From Safe Drinking Water Fund. . . . .	14,489
From Inmate Incarceration Reimbursement Act Revolving Fund . . . . .	137,584
From Mined Land Reclamation Fund. . . . .	14,459
Total (Total not to exceed 410.05 F.T.E.). . . . .	\$23,065,976

**SECTION 12.200.**— To the Attorney General

For law enforcement, domestic violence, and victims' services

Expense and Equipment

From Federal Funds. . . . . \$100,000

**SECTION 12.205.**— To the Attorney General

For a Medicaid fraud unit

Personal Service and/or Expense and Equipment

From General Revenue Fund. . . . .	\$561,050
From Federal Funds. . . . .	1,683,148
Total (Total not to exceed 28.00 F.T.E.). . . . .	\$2,244,198

**SECTION 12.210.**— To the Attorney General

For the Missouri Office of Prosecution Services

Personal Service and/or Expense and Equipment

From General Revenue Fund. . . . .	\$107,900
From Federal Funds . . . . .	1,067,326
From Missouri Office of Prosecution Services Fund. . . . .	2,023,970

From Missouri Office of Prosecution Services Revolving Fund. . . . . 150,000E  
 Total (Total not to exceed 10.00 F.T.E.). . . . . \$3,349,196

**SECTION 12.215.**— To the Attorney General

For the Missouri Office of Prosecution Services

There is transferred out of the State Treasury, chargeable to the Attorney

General Federal Fund, to the Missouri Office of Prosecution Services Fund

From Federal Funds. . . . . \$100,000

**SECTION 12.220.**— To the Attorney General

For the fulfillment or failure of conditions, or other such developments,

necessary to determine the appropriate disposition of such funds, to

those individuals, entities, or accounts within the State Treasury,

certified by the Attorney General as being entitled to receive them

Expense and Equipment

From Attorney General Trust Fund. . . . . \$1E

**SECTION 12.225.**— To the Attorney General

There is transferred out of the State Treasury, chargeable to the General

Revenue Fund, to the Attorney General's Court Costs Fund

From General Revenue Fund. . . . . \$165,600

**SECTION 12.230.**— To the Attorney General

There is transferred out of the State Treasury, chargeable to the General

Revenue Fund, to the Attorney General's Anti-Trust Fund

From General Revenue Fund. . . . . \$69,000

**SECTION 12.300.**— To the Supreme Court

For the purpose of funding Judicial Proceedings and Review

Personal Service and/or Expense and Equipment, provided that not

more than twenty-five percent (25%) flexibility is allowed between

sections and not more than ten percent (10%) flexibility is allowed

between personal service and expense and equipment

From General Revenue Fund. . . . . \$4,683,069

Personal Service

From Federal Funds . . . . . 485,026

Expense and Equipment

From Supreme Court Publications Revolving Fund . . . . . 150,000

For the purpose of funding basic legal services

Personal Service. . . . . 51,968

Expense and Equipment . . . . . 10,266

Program Specific Distribution . . . . . 3,200,000E

From Basic Civic Legal Services Fund. . . . . 3,262,234

Total (Total not to exceed 83.00 F.T.E.). . . . . \$8,580,329

**SECTION 12.305.**— To the Supreme Court

For the purpose of funding the State Courts Administrator

Personal Service and/or Expense and Equipment, provided that not

more than twenty-five percent (25%) flexibility is allowed between sections or general revenue lines within this section and not more than ten percent (10%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. . . . . \$3,766,512

Expense and Equipment

From State Court Administration Revolving Fund . . . . . 30,000

For the purpose of implementing and supporting an integrated case management system

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between sections and not more than ten percent (10%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. . . . . 7,356,424

Expense and Equipment

From Crime Victims' Compensation Fund. . . . . 887,200

Total (Total not to exceed 136.00 F.T.E.). . . . . \$12,040,136

**SECTION 12.310.** — To the Supreme Court

For the purpose of funding all grants and contributions of funds from the federal government or from any other source which may be deposited in the State Treasury for the use of the Supreme Court and other state courts

Personal Service. . . . . \$2,284,380

Expense and Equipment . . . . . 5,609,649E

From Federal Funds . . . . . 7,894,029

Personal Service. . . . . 30,942

Expense and Equipment. . . . . 300

From Basic Civil Legal Services Fund. . . . . 31,242

Total (Total not to exceed 47.25 F.T.E.). . . . . \$7,925,271

**SECTION 12.315.** — To the Supreme Court

For the purpose of developing and implementing a program of statewide court automation

Personal Service. . . . . \$1,561,021

Expense and Equipment . . . . . 2,885,181E

From Statewide Court Automation Fund (Total not to exceed 34.00 F.T.E.). . . . . \$4,446,202

**SECTION 12.320.** — There is transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Judiciary Education and Training Fund, provided that not more than twenty-five percent (25%) flexibility is allowed between sections

From General Revenue Fund. . . . . \$1,395,363

**SECTION 12.325.** — To the Supreme Court

For the purpose of funding judicial education and training

Expense and Equipment

From Federal Funds. . . . . \$225,000



Personal Service. . . . .	551,675
Expense and Equipment. . . . .	<u>843,688</u>
From Judiciary Education and Training Fund. . . . .	<u>1,395,363</u>
Total (Total not to exceed 11.00 F.T.E.). . . . .	\$1,620,363

**SECTION 12.330.**— To the Supreme Court

For the purpose of funding the Court of Appeals-Western District

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between sections and not more than ten percent (10%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund (Total not to exceed 53.50 F.T.E.). . . . . \$3,741,618

**SECTION 12.335.**— To the Supreme Court

For the purpose of funding the Court of Appeals-Eastern District

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between sections and not more than ten percent (10%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund (Total not to exceed 73.75 F.T.E.). . . . . \$4,818,437

**SECTION 12.340.**— To the Supreme Court

For the purpose of funding the Court of Appeals-Southern District

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between sections and not more than ten percent (10%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund (Total not to exceed 31.60 F.T.E.). . . . . \$2,314,295

**SECTION 12.345.**— To the Supreme Court

For the purpose of funding the Circuit Courts

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between sections or general revenue lines within this section and not more than ten percent (10%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. . . . . \$125,006,658

Personal Service. . . . .	1,541,273
Expense and Equipment. . . . .	<u>329,661</u>
From Federal Funds . . . . .	<u>1,870,934</u>

Personal Service. . . . .	252,524
Expense and Equipment. . . . .	<u>128,039</u>
From Third Party Liability Collections Fund. . . . .	380,563

Expense and Equipment	
From State Court Administration Revolving Fund . . . . .	200,000

Program Distribution  
For Entitlement Programs

From General Revenue Fund. . . . .	2,079,000
For the purpose of funding the court-appointed special advocacy program statewide office	
From General Revenue Fund. . . . .	300,000
For the purpose of funding court-appointed special advocacy programs as provided in Section 476.777, RSMo	
From Missouri CASA Fund. . . . .	100,000E
For the purpose of funding costs associated with creating the handbook and other programs as provided in Section 452.554, RSMo	
From Domestic Relations Resolution Fund. . . . .	300,000E
For the purpose of making payments due from litigants in court proceedings under set-off against debts authority as provided in Section 488.020(3), RSMo	
From Circuit Courts Escrow Fund. . . . .	505,500E
For the payment to counties for salaries of juvenile court personnel as provided by Sections 211.393 and 211.394, RSMo	
From General Revenue Fund. . . . .	7,579,900
For the purpose of funding Criminal Non-Support Court development	
From Criminal Nonsupport Court Resources Fund. . . . .	1E
Total (Total not to exceed 2,928.20 F.T.E.). . . . .	\$138,322,556

**SECTION 12.350.**— There is transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Drug Court Resources Fund, provided that not more than twenty-five percent (25%) flexibility is allowed between sections

From General Revenue Fund. . . . . \$6,725,000

**SECTION 12.355.**— To the Supreme Court

For the purpose of funding drug courts

Personal Service. . . . . \$193,656

Expense and Equipment. . . . . 6,723,698E

From Drug Court Resources Fund (Total not to exceed 4.00 F.T.E.). . . . . \$6,917,354

**SECTION 12.360.**— To the Commission on Retirement, Removal, and Discipline of Judges

For the purpose of funding the expenses of the Commission

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund (Total not to exceed 2.75 F.T.E.). . . . . \$220,644

**SECTION 12.365.**— To the Supreme Court

For the purpose of funding the expenses of the members of the Appellate

Judicial Commission and the several circuit judicial commissions in circuits having the non-partisan court plan, and for services rendered

by clerks of the Supreme Court, courts of appeals, and clerks in  
circuits having the non-partisan court plan for giving notice of and  
conducting elections as ordered by the Supreme Court  
From General Revenue Fund . . . . . \$7,741

**SECTION 12.370.**— To the Supreme Court

For the purpose of funding the Missouri Sentencing and Advisory Commission  
Personal Service and/or Expense and Equipment  
From General Revenue Fund (Total not to exceed 1.00 F.T.E.). . . . . \$78,983

**SECTION 12.400.**— To the Office of the State Public Defender

For the purpose of funding the State Public Defender System  
Personal Service and/or Expense and Equipment. . . . . \$32,149,041  
For payment of expenses as provided by Chapter 600, RSMo, associated  
with the defense of violent crimes and/or the contracting of criminal  
representation with entities outside of the Missouri Public Defender  
System. . . . . 2,558,059  
From General Revenue Fund. . . . . 34,707,100

For expenses authorized by the Public Defender Commission as provided  
by Section 600.090, RSMo  
Personal Service. . . . . 129,507  
Expense and Equipment. . . . . 2,850,756  
From Legal Defense and Defender Fund . . . . . 2,980,263

For refunds set-off against debts as required by Section 143.786, RSMo  
From Debt Offset Escrow Fund . . . . . 350,000E

For all grants and contributions of funds from the federal government or from  
any other source which may be deposited in the State Treasury for the use  
of the Office of the State Public Defender  
From Federal Funds. . . . . 125,000  
Total (Total not to exceed 587.13 F.T.E.). . . . . \$38,162,363

**SECTION 12.500.**— To the Senate

Salaries of Members. . . . . \$1,226,610  
Mileage of Members. . . . . 87,406  
Members' Per Diem . . . . . 226,100  
Senate Contingent Expenses. . . . . 8,838,783  
Joint Contingent Expenses. . . . . 160,000  
From General Revenue Fund. . . . . 10,538,899

Senate Contingent Expenses  
From Senate Revolving Fund. . . . . 40,000  
Total (Total not to exceed 212.00 F.T.E.). . . . . \$10,578,899

**SECTION 12.505.**— To the House of Representatives

Salaries of Members. . . . . \$5,861,145  
Mileage of Members. . . . . 395,491  
Members' Per Diem . . . . . 1,290,960  
Representatives' Expense Vouchers . . . . . 1,369,200

House Contingent Expenses. . . . .	<u>10,657,028</u>
From General Revenue Fund. . . . .	19,573,824

House Contingent Expenses	
From House of Representatives Revolving Fund. . . . .	<u>45,000E</u>
Total (Total not to exceed 417.84 F.T.E.) . . . . .	\$19,618,824

**SECTION 12.510.**— To the Committee on Legislative Research

For payment of expenses of members, salaries and expenses of employees,  
and other necessary operating expenses, provided that not more than  
twenty-five percent (25%) flexibility is allowed between personal  
service and expense and equipment

For the Legislative Research Administration. . . . .	\$1,054,354
For the Oversight Division. . . . .	<u>685,522</u>
From General Revenue Fund (Total not to exceed 37.03 F.T.E.) . . . . .	\$1,739,876

**SECTION 12.515.**— To the Committee on Legislative Research

For paper, printing, binding, editing, proofreading, and other necessary  
expenses of publishing the Supplement to the Revised Statutes  
of the State of Missouri

From General Revenue Fund. . . . .	\$361,436
From Statutory Revision Fund . . . . .	<u>207,255E</u>
Total (Total not to exceed 6.30 F.T.E.) . . . . .	\$568,691

**SECTION 12.520.**— To the Interim Committees of the General Assembly

For the Joint Committee on Administrative Rules. . . . .	\$122,528
For the Joint Committee on Public Employee Retirement. . . . .	160,810
For the Joint Committee on Tax Policy. . . . .	74,143
For the Joint Committee on Education. . . . .	<u>73,825</u>
From General Revenue Fund (Total not to exceed 7.00 F.T.E.) . . . . .	\$431,306

**Elected Officials Totals**

General Revenue Fund. . . . .	\$44,296,948
Federal Funds. . . . .	19,974,231
Other Funds. . . . .	<u>42,282,788</u>
Total. . . . .	\$106,553,967

**Judiciary Totals**

General Revenue Fund. . . . .	\$170,074,144
Federal Funds. . . . .	10,474,989
Other Funds. . . . .	<u>10,292,942</u>
Total. . . . .	\$190,842,075

**Public Defender Commission Totals**

General Revenue Fund. . . . .	\$34,707,100
Federal Funds. . . . .	125,000
Other Funds. . . . .	<u>2,980,263</u>
Total. . . . .	\$37,812,363

**General Assembly Totals**

General Revenue Fund. . . . .	\$32,645,341
Other Funds. . . . .	292,255
Total. . . . .	<u>\$32,937,596</u>

Approved June 10, 2011

## HB 13 [CCS SCS HCS HB 13]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

### **APPROPRIATIONS: REAL PROPERTY LEASES AND RELATED SERVICES AND CAPITAL IMPROVEMENTS.**

AN ACT to appropriate money for real property leases, related services, utilities, systems furniture, structural modifications, and related expenses for the several departments of state government and the divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to appropriate money for capital improvements and the other expenses of the Office of Administration and the divisions and programs thereof, and to transfer money among certain funds for the period beginning July 1, 2011 and ending June 30, 2012; provided that no funds from these sections shall be expended for the purpose of costs associated with travel or staffing for the offices of the Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, or Attorney General.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2011 and ending June 30, 2012 as follows:

#### **SECTION 13.005.**— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the payment of real property leases, utilities, systems furniture, structural modifications, and provided that not more than fifteen percent (15%) flexibility is allowed between Sections 13.005, 13.010, and 13.015, with no more than ten percent (10%) flexibility allowed between departments within this section

For the Department of Elementary and Secondary Education

Expense and Equipment

From General Revenue Fund. . . . . \$362,283

From Federal Funds and Other Funds . . . . . 1,952,388

For the Department of Revenue

Expense and Equipment

From General Revenue Fund. . . . . 597,784

From Other Funds .. . . . 3,172

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For the Department of Revenue	
For the State Lottery Commission	
Expense and Equipment	
From Other Funds . . . . .	350,269
For the Office of Administration	
Expense and Equipment	
From General Revenue Fund. . . . .	299,626
From Other Funds . . . . .	394,601
For the Ethics Commission	
Expense and Equipment	
From General Revenue Fund. . . . .	92,326
For the Department of Agriculture	
Expense and Equipment	
From General Revenue Fund. . . . .	159,015
From Other Funds . . . . .	81,721
For the Department of Natural Resources	
Expense and Equipment	
From General Revenue Fund. . . . .	297,565
From Federal Funds and Other Funds . . . . .	1,422,708
For the Department of Economic Development	
Expense and Equipment	
From General Revenue Fund. . . . .	86,659
From Federal Funds and Other Funds . . . . .	2,505,690
For the Department of Insurance, Finance, and Professional Registration	
Expense and Equipment	
From Other Funds . . . . .	67,234
For the Department of Labor and Industrial Relations	
Expense and Equipment	
From General Revenue Fund. . . . .	6,785
From Federal Funds and Other Funds . . . . .	315,567
For the Department of Public Safety	
Expense and Equipment	
From General Revenue Fund. . . . .	202,523
From Federal Funds . . . . .	36,840
For the Department of Public Safety	
For the State Highway Patrol	
Expense and Equipment	
From General Revenue Fund. . . . .	60,546
From Federal Funds and Other Funds . . . . .	1,012,249
For the Department of Public Safety	
For the Gaming Commission	

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Expense and Equipment	
From Gaming Commission Fund. . . . .	389,253
For the Department of Corrections	
Expense and Equipment	
From General Revenue Fund. . . . .	5,677,974
From Other Funds . . . . .	179,816
For the Department of Mental Health	
Expense and Equipment	
From General Revenue Fund. . . . .	1,515,483
From Federal Funds . . . . .	3,832
For the Department of Health and Senior Services	
Expense and Equipment	
From General Revenue Fund. . . . .	1,769,031
From Federal Funds . . . . .	1,988,255
For the Department of Social Services	
Expense and Equipment	
From General Revenue Fund. . . . .	9,494,287
From Federal Funds and Other Funds . . . . .	5,250,818
For the State Legislature	
Expense and Equipment	
From General Revenue Fund. . . . .	11,325
For the Secretary of State	
Expense and Equipment	
From General Revenue Fund. . . . .	616,717
From Other Funds . . . . .	3,296
For the State Auditor	
Expense and Equipment	
From General Revenue Fund. . . . .	15,175
For the Attorney General	
Expense and Equipment	
From General Revenue Fund. . . . .	360,073
From Federal Funds and Other Funds . . . . .	335,212
For the Judiciary	
Expense and Equipment	
From General Revenue Fund. . . . .	2,106,483
From Federal Funds and Other Funds. . . . .	138,272
Total. . . . .	<u>\$40,162,853</u>

**SECTION 13.010.**— To the Office of Administration

For the division of Facilities Management, Design and Construction

For operation of state-owned facilities, utilities, systems furniture, structural modifications, and provided that not more than fifteen percent (15%)

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flexibility is allowed between Sections 13.005, 13.010, and 13.015, with no more than ten percent (10%) flexibility allowed between departments within this section	
For the Department of Elementary and Secondary Education	
Expense and Equipment	
From General Revenue Fund. . . . .	\$437,806
From Federal Funds and Other Funds . . . . .	1,087,021
 For the Department of Higher Education	
Expense and Equipment	
From General Revenue Fund. . . . .	130,920
 For the Department of Revenue	
Expense and Equipment	
From General Revenue Fund. . . . .	723,538
From Other Funds . . . . .	1,333,381
 For the Office of Administration	
Expense and Equipment	
From General Revenue Fund. . . . .	1,722,616
From Other Funds . . . . .	616,296
 For the Department of Agriculture	
Expense and Equipment	
From General Revenue Fund. . . . .	331,629
From Federal Funds and Other Funds . . . . .	155,527
 For the Department of Natural Resources	
Expense and Equipment	
From General Revenue Fund. . . . .	314,077
From Federal Funds and Other Funds . . . . .	992,855
 For the Department of Economic Development	
Expense and Equipment	
From General Revenue Fund. . . . .	257,526
From Federal Funds and Other Funds . . . . .	1,143,303
 For the Department of Insurance, Finance, and Professional Registration	
Expense and Equipment	
From Other Funds . . . . .	864,787
 For the Department of Labor and Industrial Relations	
Expense and Equipment	
From General Revenue Fund. . . . .	92,116
From Federal Funds and Other Funds . . . . .	1,487,750
 For the Department of Public Safety	
Expense and Equipment	
From General Revenue Fund. . . . .	353,284
From Federal Funds and Other Funds . . . . .	20,404

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For the Department of Public Safety	
For the State Highway Patrol	
Expense and Equipment	
From Other Funds .....	151,821
For the Department of Public Safety	
For the Gaming Commission	
Expense and Equipment	
From Gaming Commission Fund. ....	63,570
For the Department of Corrections	
Expense and Equipment	
From General Revenue Fund. ....	903,689
For the Department of Mental Health	
Expense and Equipment	
From General Revenue Fund. ....	716,518
From Federal Funds and Other Funds . ....	228,449
For the Department of Health and Senior Services	
Expense and Equipment	
From General Revenue Fund. ....	662,411
From Federal Funds . ....	927,976
For the Department of Social Services	
Expense and Equipment	
From General Revenue Fund. ....	5,297,883
From Federal Funds and Other Funds . ....	897,653
For the Governor's Office	
Expense and Equipment	
From General Revenue Fund. ....	347,264
For the Lieutenant Governor's Office	
Expense and Equipment	
From General Revenue Fund. ....	35,250
For the State Legislature	
Expense and Equipment	
From General Revenue Fund. ....	1,882,174
For the Secretary of State	
Expense and Equipment	
From General Revenue Fund. ....	1,009,241
From Other Funds ..	39,368
For the State Auditor	
Expense and Equipment	
From General Revenue Fund. ....	221,962
For the Attorney General	

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Expense and Equipment	
From General Revenue Fund. . . . .	538,308
From Federal Funds and Other Funds . . . . .	282,027

For the State Treasurer	
Expense and Equipment	
From Other Funds . . . . .	199,866

For the Judiciary	
Expense and Equipment	
From General Revenue Fund. . . . .	240,128
Total. . . . .	<u>\$26,710,394</u>

**SECTION 13.015.**— To the Office of Administration

For the Division of Facilities Management, Design and Construction  
For the operation of institutional facilities, utilities, systems furniture, structural  
modifications, and provided that not more than fifteen percent (15%)  
flexibility is allowed between Sections 13.005, 13.010, and 13.015,  
with no more than ten percent (10%) flexibility allowed between  
departments within this section  
For the Department of Elementary and Secondary Education  
Expense and Equipment  
From General Revenue Fund. . . . . \$3,995,949

For the Department of Revenue	
For the Lottery Commission	
Expense and Equipment	
From Other Funds . . . . .	136,775

For the Department of Agriculture	
Expense and Equipment	
From Other Funds . . . . .	467,177

For the Department of Public Safety	
Expense and Equipment	
From General Revenue Fund. . . . .	2,490,395
From Other Funds . . . . .	57,132

For the Department of Public Safety	
For the State Highway Patrol	
Expense and Equipment	
From General Revenue Fund. . . . .	288,336
From Federal Funds and Other Funds . . . . .	1,863,163

For the Department of Corrections	
Expense and Equipment	
From General Revenue Fund. . . . .	43,504,470
From Other Funds . . . . .	1,425,607

For the Department of Mental Health	
Expense and Equipment	

From General Revenue Fund. . . . .	21,111,917
For the Department of Social Services	
Expense and Equipment	
From General Revenue Fund. . . . .	2,734,586
From Federal Funds. . . . .	<u>769,092</u>
Total. . . . .	\$78,844,599

**SECTION 13.020.**— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the collection and payment of costs associated with state-owned,  
institutional, and state leased space occupied by non-state agencies  
Expense and Equipment

From Office of Administration Revolving Administrative Trust Fund. . . . .	\$610,386E
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**SECTION 13.025.**— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Department of Public Safety

For the Adjutant General

For the payment of real property leases, related services, utilities, systems  
furniture, structural modifications, and related expenses  
Expense and Equipment

From Federal Funds. . . . .	\$927,156E
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For the Department of Public Safety

For the Adjutant General

For the operation of institutional facilities, related services, utilities, systems  
furniture, structural modifications, and related expenses  
Expense and Equipment

From General Revenue Fund. . . . .	1,231,518
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From Federal Funds and Other Funds . . . . .	<u>4,473,731E</u>
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Total. . . . .	\$6,632,405
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**BILL TOTALS**

General Revenue Fund. . . . .	\$115,307,171
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Federal Funds. . . . .	22,022,899
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Other Funds. . . . .	<u>12,457,475</u>
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Total. . . . .	\$149,787,545
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Approved June 10, 2011

HB 14 [SS SCS HCS HB 14]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**APPROPRIATIONS: SUPPLEMENTAL PURPOSES.**

AN ACT to appropriate money for supplemental purposes for the several departments and offices of state government, and for the payment of various claims for refunds, for persons, firms, and corporations, and for other purposes, and to transfer money among certain funds, from the funds designated for the fiscal period ending June 30, 2011.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

There is appropriated out of the State Treasury, chargeable to the fund and for the agency and purpose designated, for the period ending June 30, 2011, as follows:

**SECTION 14.005.**— To the Department of Elementary and Secondary Education  
For distributions to the free public schools under the School Foundation Program,  
as provided in Chapter 163, RSMo, for Early Childhood Special Education  
From State School Moneys Fund. . . . . \$5,444,000

**SECTION 14.010.**— To the Department of Elementary and Secondary Education  
For courses, exams, and other expenses that lead to high school students receiving  
college credit and Advanced Placement examination fees for low-income  
families and for science and mathematics exams  
From Federal Funds. . . . . \$271,500

**SECTION 14.015.**— To the Department of Elementary and Secondary Education  
For the Disability Determination Program  
From Federal Funds. . . . . \$3,000,000

**SECTION 14.020.**— To the Department of Elementary and Secondary Education  
Funds are to be transferred out of the State Treasury, chargeable to  
the General Revenue Fund, to the State School Moneys Fund  
From General Revenue Fund. . . . . \$5,444,000

**SECTION 14.025.**— To the Department of Higher Education  
Funds are to be transferred out of the State Treasury, chargeable to  
the funds listed below, to the A+ Schools Fund  
From Missouri Prospective Teachers Loan Fund. . . . . \$28,000  
From Guaranty Agency Operating Fund. . . . . 3,500,000  
Total. . . . . \$3,528,000

**SECTION 14.030.**— To the Department of Higher Education  
For the A+ Schools Program  
From A+ Schools Fund. . . . . \$3,528,000E

**SECTION 14.035.**— To the Department of Higher Education  
For distribution to community colleges as provided in Section 163.191, RSMo  
From Federal Budget Stabilization Fund. . . . . \$229,893

**SECTION 14.040.**— To Linn State Technical College  
All Expenditures  
From Federal Budget Stabilization Fund. . . . . \$8,113

**SECTION 14.045.**— To the University of Central Missouri  
All Expenditures

From Federal Budget Stabilization Fund. . . . . \$92,457

**SECTION 14.050.**— To Southeast Missouri State University

All Expenditures

From Federal Budget Stabilization Fund. . . . . \$75,367

**SECTION 14.055.**— To Missouri State University

All Expenditures

From Federal Budget Stabilization Fund. . . . . \$139,435

**SECTION 14.060.**— To Lincoln University

All Expenditures

From Federal Budget Stabilization Fund. . . . . \$30,646

**SECTION 14.065.**— To Truman State University

All Expenditures

From Federal Budget Stabilization Fund. . . . . \$69,968

**SECTION 14.070.**— To Northwest Missouri State University

All Expenditures

From Federal Budget Stabilization Fund. . . . . \$51,280

**SECTION 14.075.**— To Missouri Southern State University

All Expenditures

From Federal Budget Stabilization Fund. . . . . \$39,658

**SECTION 14.080.**— To Missouri Western State University

All Expenditures

From Federal Budget Stabilization Fund. . . . . \$36,545

**SECTION 14.085.**— To Harris-Stowe State University

All Expenditures

From Federal Budget Stabilization Fund. . . . . \$16,851

**SECTION 14.090.**— To the University of Missouri

For operation of its various campuses and programs

All Expenditures

From Federal Budget Stabilization Fund. . . . . \$699,436

**SECTION 14.095.**— To the Department of Revenue

For the increased costs of license plate manufacture

From General Revenue Fund. . . . . \$13,726

**SECTION 14.100.**— Funds are to be transferred out of the State Treasury, chargeable to the General Revenue Fund, to the State Highways and Transportation Department Fund, for reimbursement of collection expenditures in excess of the three percent (3%) limit established by Article IV, Sections 29, 30(a), 30(b), and 30(c) of the Missouri Constitution

From General Revenue Fund. . . . . \$3,435,755

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**SECTION 14.105.**— To the Department of Revenue

For postage

Expense and Equipment

From General Revenue Fund. . . . . \$1,415,340

**SECTION 14.110.**— To the Department of Revenue

For payment of fees to counties for the filing of lien notices and lien releases

From General Revenue Fund. . . . . \$120,000

**SECTION 14.115.**— There is transferred out of the state treasury, chargeable to the General Revenue Fund, such amounts generated by redevelopment projects, as required by Section 99.1092, RSMo, to the Downtown Revitalization Preservation Fund

From General Revenue Fund. . . . . \$34,184

**SECTION 14.120.**— To the Office of Administration

For the Missouri Ethics Commission

Personal Service and/or Expense and Equipment

From General Revenue Fund (Not to exceed .80 F.T.E.). . . . . \$51,379

**SECTION 14.125.**— To the Office of Administration

For payment of COBRA stimulus credits to the Missouri Consolidated

Health Care Plan

From Missouri Consolidated Health Care Plan Benefit Fund. . . . . \$455,890E

For payment of COBRA stimulus credits to the Missouri Department of

Transportation/Missouri State Highway Patrol Medical and Life Insurance Plan

From State Road Fund. . . . . 82,093ETotal. . . . . \$537,983**SECTION 14.130.**— To the Department of Economic Development

For the Downtown Revitalization Preservation Program as provided in

Sections 99.1080 to 99.1092, RSMo

From Downtown Revitalization Preservation Fund. . . . . \$34,184

**SECTION 14.135.**— To the Department of Public Safety

For the Office of the Director

For payment of attorney fees

From General Revenue Fund. . . . . \$1,632

**SECTION 14.137.**— There is transferred out of the state treasury, chargeable to the Crime Victims' Compensation Fund to the Sexual Assault Forensic Examinations Fund for sexual assault forensic examinations

From Crime Victims' Compensation Fund. . . . . \$752,000

**SECTION 14.140.**— To the Department of Public Safety

For the Office of the Director

For the Crime Victims' Compensation Program

Sexual assault forensic examinations

From Sexual Assault Forensic Examinations Fund. . . . . \$752,000

**SECTION 14.145.**— To the Department of Public Safety

For the State Highway Patrol

For Crime Labs

From General Revenue Fund. . . . . \$1,287,194

**SECTION 14.150.**— To the Department of Mental Health

For the Office of the Director

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund. . . . . \$2,845,244

From Federal Funds. . . . . 996,654

Total. . . . . \$3,841,898

**SECTION 14.155.**— To the Department of Health and Senior Services

For the Office of the Director

For payment of attorney fees

From General Revenue Fund. . . . . \$27,709

**SECTION 14.160.**— To the Department of Health and Senior Services

For the Division of Senior and Disability Services

For the purpose of funding respite care, homemaker chore, personal care, adult day care, AIDS, children's waiver services, home-delivered meals, other related services, and program management under the MO HealthNet fee-for-service and managed care programs. Provided that individuals eligible for or receiving nursing home care must be given the opportunity to have those MO HealthNet dollars follow them to the community to the extent necessary to meet their unmet needs as determined by 19 CSR 30 81.030 and further be allowed to choose the personal care program option in the community that best meets the individuals' unmet needs. This includes the Consumer Directed MO HealthNet State Plan. And further provided that individuals eligible for the MO HealthNet Personal Care Option must be allowed to choose, from among all the program options, that option which best meets their unmet needs as determined by 19 CSR 30 81.030; and also be allowed to have their MO HealthNet funds follow them to the extent necessary to meet their unmet needs whichever option they choose. This language does not create any entitlements not established by statute

From General Revenue Fund. . . . . \$19,872,516

From Federal Funds . . . . . 35,219,697E

Total. . . . . \$55,092,213

**SECTION 14.165.**— To the Department of Social Services

For the Family Support Division

For payment of attorney fees

From General Revenue Fund. . . . . \$2,073

**SECTION 14.170.**— To the Department of Social Services

For the Children's Division

For the purpose of funding children's treatment services; alternative care placement services; adoption subsidy services; independent living services; psychiatric diversion services; and services provided through comprehensive, expedited permanency systems of care for children and families

From General Revenue Fund. . . . .	\$2,628,338
From Federal Funds. . . . .	<u>4,002,222</u>
Total. . . . .	\$6,630,560

**SECTION 14.175.**— To the Department of Social Services

For the Children's Division

For the purpose of funding child care services

From Early Childhood Development, Education and Care Fund. . . . . \$728,740

**SECTION 14.180.**— To the Department of Social Services

For the MO HealthNet Division

For payment of attorney fees

From General Revenue Fund. . . . . \$2,963

**SECTION 14.185.**— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding Medicare Part D Clawback payments

From General Revenue Fund. . . . . \$18,904,010

**SECTION 14.190.**— To the Department of Social Services

For the MO HealthNet Division

For the purpose of supplementing appropriations for any medical service under the MO HealthNet fee-for-service, managed care, or state medical programs, including related services, provided that funds appropriated herein shall not be used to implement new programs or services and that such programs and services are in existence as of the effective date of this section

From General Revenue Fund. . . . .	\$47,359,237
From Federal Funds . . . . .	63,145,512
From Health Initiatives Fund. . . . .	<u>9,900,000</u>
Total. . . . .	\$120,404,749

**BILL TOTALS**

General Revenue Fund. . . . .	\$103,445,300
Federal Budget Stabilization Fund.. . . .	1,489,649
Federal Funds.. . . .	106,635,585
Other Funds. . . . .	<u>15,446,723</u>
Total. . . . .	\$227,017,257



Approved May 2, 2011

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## HB 15 [HB 15]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**APPROPRIATIONS: SUPPLEMENTAL PURPOSES FOR THE DEPARTMENT OF  
ELEMENTARY AND SECONDARY EDUCATION.**

AN ACT to appropriate money for supplemental purposes for the several departments and offices of state government, and for the payment of various claims for refunds, for persons, firms, and corporations, and for other purposes, and to transfer money among certain funds, from the funds designated for the fiscal period ending June 30, 2011.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

There is appropriated out of the State Treasury, chargeable to the fund and for the agency and purpose designated, for the period ending June 30, 2011, as follows:

**SECTION 15.005.**— To the Department of Elementary and Secondary Education  
Funds are to be transferred out of the State Treasury, chargeable to  
the Federal Education Jobs Fund, to the State School Moneys Fund  
From Federal Education Jobs Fund. . . . . \$101,000,982

**SECTION 15.010.**— To the Department of Elementary and Secondary Education  
Funds are to be transferred out of the State Treasury, chargeable to  
the Federal Education Jobs Fund, to the Classroom Trust Fund  
From Federal Education Jobs Fund. . . . . \$23,808,000

**SECTION 15.015.**— To the Department of Elementary and Secondary Education  
Funds are to be transferred out of the State Treasury, chargeable to the  
Federal Education Jobs Fund, to the Federal Budget Stabilization Fund  
From Federal Education Jobs Fund. . . . . \$64,918,743

**BILL TOTAL**  
Federal Education Jobs Fund. . . . . \$189,727,725

Approved May 2, 2011

## HB 17 [SCS HCS HB 17]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**APPROPRIATIONS: CAPITAL IMPROVEMENTS.**

AN ACT to appropriate money for capital improvement and other purposes for the several departments of state government and the divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, from the funds herein designated for the period beginning July 1, 2011 and ending June 30, 2013.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

There is appropriated out of the State Treasury, for the agency, program, and purpose stated, chargeable to the fund designated, for the period beginning July 1, 2011 and ending June 30, 2013, the unexpended balances available as of June 30, 2011, but not to exceed the amounts stated herein, as follows:

**SECTION 17.005.** — To the Office of Administration

For the Department of Elementary and Secondary Education

For maintenance, repairs, replacements, and improvements at facilities statewide

Representing expenditures originally authorized under the provisions of House Bill Section 18.005, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 17.005, an Act of the 95th General Assembly, First Regular Session

From Facilities Maintenance Reserve Fund. . . . . \$248,427

**SECTION 17.010.** — To Missouri State University

For planning, design, construction, and renovations necessary to implement phase one of the facilities reutilization plan

Representing expenditures originally authorized under the provisions of House Bill Section 16.060, an Act of the 94th General Assembly, First Regular Session, authorized under the provisions of House Bill Section 17.280, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 17.045, an Act of the 95th General Assembly, First Regular Session

From Lewis and Clark Discovery Fund. . . . . \$19,265,277

**SECTION 17.011.** — To Truman State University

For planning, design, renovation, and construction at the Pershing Building

Representing expenditures originally authorized under the provisions of House Bill Section 16.100, an Act of the 94th General Assembly, First Regular Session, authorized under the provisions of House Bill Section 17.320, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 17.075, an Act of the 95th General Assembly, First Regular Session

From Lewis and Clark Discovery Fund. . . . . \$10,222,081

**SECTION 17.014.** — To the University of Missouri

For planning, design, renovation, and construction, and/or purchase

of equipment for the Greenley Learning and Discovery Park  
Representing expenditures originally authorized under the provisions of House Bill Section 16.115, an Act of the 94th General Assembly, First Regular Session, authorized under the provisions of House Bill Section 17.330, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 17.085, an Act of the 95th General Assembly, First Regular Session

From Lewis and Clark Discovery Fund. . . . . \$1,848,723

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**SECTION 17.015.**— To Missouri State University

For planning, design, renovation, and construction of a business incubator  
Representing expenditures originally authorized under the provisions  
of House Bill Section 16.065, an Act of the 94th General Assembly,  
First Regular Session, authorized under the provisions of House Bill  
Section 17.285, an Act of the 94th General Assembly, First Regular  
Session, and most recently authorized under the provisions of House  
Bill Section 17.050, an Act of the 95th General Assembly, First  
Regular Session

From Lewis and Clark Discovery Fund. . . . . \$382,440

**SECTION 17.020.**— To the University of Missouri

For planning, design, renovation, construction, and/or purchase of equipment  
for swine confinement buildings and a biomedical swine research  
facility in Boone County

Representing expenditures originally authorized under the provisions  
of House Bill Section 16.155, an Act of the 94th General Assembly,  
First Regular Session, authorized under the provisions of House Bill  
Section 17.370, an Act of the 94th General Assembly, First Regular  
Session, and most recently authorized under the provisions of House  
Bill Section 17.125, an Act of the 95th General Assembly, First  
Regular Session

From Lewis and Clark Discovery Fund. . . . . \$1,371,799

**SECTION 17.021.**— To the University of Missouri

For planning, design, renovation, construction, and/or purchase of equipment  
for a plant science greenhouse at the Delta Research Center

Representing expenditures originally authorized under the provisions  
of House Bill Section 16.120, an Act of the 94th General Assembly,  
First Regular Session, authorized under the provisions of House Bill  
Section 17.335, an Act of the 94th General Assembly, First Regular  
Session, and most recently authorized under the provisions of House  
Bill Section 17.090, an Act of the 95th General Assembly, First  
Regular Session

From Lewis and Clark Discovery Fund. . . . . \$1,703,230

**SECTION 17.022.**— To the University of Missouri

For planning, design, renovation, construction, and/or purchase of equipment  
for an education and outreach center in Lawrence County

Representing expenditures originally authorized under the provisions  
of House Bill Section 16.125, an Act of the 94th General Assembly,  
First Regular Session, authorized under the provisions of House Bill  
Section 17.340, an Act of the 94th General Assembly, First Regular  
Session, and most recently authorized under the provisions of House  
Bill Section 17.095, an Act of the 95th General Assembly, First  
Regular Session

From Lewis and Clark Discovery Fund. . . . . \$3,015,650

**SECTION 17.023.**— To the University of Missouri

For planning, design, renovation, construction, and/or purchase of equipment  
for a meeting and education facility in Atchison and Holt Counties

Representing expenditures originally authorized under the provisions of House Bill Section 16.130, an Act of the 94th General Assembly, First Regular Session, authorized under the provisions of House Bill Section 17.345, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 17.100, an Act of the 95th General Assembly, First Regular Session

From Lewis and Clark Discovery Fund. . . . . \$548,791

**SECTION 17.024.**— To the University of Missouri

For planning, design, renovation, construction, and/or purchase of equipment for an agroforestry education and research center and meeting and education facilities in Howard County

Representing expenditures originally authorized under the provisions of House Bill Section 16.135, an Act of the 94th General Assembly, First Regular Session, authorized under the provisions of House Bill Section 17.350, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 17.105, an Act of the 95th General Assembly, First Regular Session

From Lewis and Clark Discovery Fund. . . . . \$2,982,918

**SECTION 17.025.**— To the University of Missouri

For planning, design, renovation, and construction of the Pharmacy and Nursing Building on the Kansas City campus

Representing expenditures originally authorized under the provisions of House Bill Section 19.010, an Act of the 94th General Assembly, Second Regular Session, authorized under the provisions of House Bill Section 16.010, an Act of the 94th General Assembly, Second Regular Session, and most recently authorized under the provisions of House Bill Section 17.155, an Act of the 95th General Assembly, First Regular Session

From Lewis and Clark Discovery Fund. . . . . \$619,962

**SECTION 17.026.**— To the University of Missouri

For planning, design, renovation, and construction, and/or purchase of equipment for a headquarters building and meeting room in Grundy County

Representing expenditures originally authorized under the provisions of House Bill Section 16.145, an Act of the 94th General Assembly, Second Regular Session, authorized under the provisions of House Bill Section 17.360, an Act of the 94th General Assembly, Second Regular Session, and most recently authorized under the provisions of House Bill Section 17.115, an Act of the 95th General Assembly, First Regular Session

From Lewis and Clark Discovery Fund. . . . . \$659,603

**SECTION 17.027.**— To the University of Missouri

For planning, design, renovation, and construction, and/or purchase of equipment for a meeting and education facility in Crawford County

Representing expenditures originally authorized under the provisions

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of House Bill Section 16.150, an Act of the 94th General Assembly, Second Regular Session, authorized under the provisions of House Bill Section 17.365, an Act of the 94th General Assembly, Second Regular Session, and most recently authorized under the provisions of House Bill Section 17.120, an Act of the 95th General Assembly, First Regular Session  
 From Lewis and Clark Discovery Fund. . . . . \$503,266

**SECTION 17.028.**— To the University of Missouri

For planning, design, renovation, and construction, and/or purchase of equipment for a swine research isolation facility in Callaway County  
 Representing expenditures originally authorized under the provisions of House Bill Section 16.160, an Act of the 94th General Assembly, Second Regular Session, authorized under the provisions of House Bill Section 17.375, an Act of the 94th General Assembly, Second Regular Session, and most recently authorized under the provisions of House Bill Section 17.130, an Act of the 95th General Assembly, First Regular Session  
 From Lewis and Clark Discovery Fund. . . . . \$599,790

**SECTION 17.029.**— To the University of Missouri

For planning, design, renovation, and construction of Benton and Stadler Halls on the St. Louis campus  
 Representing expenditures originally authorized under the provisions of House Bill Section 16.180, an Act of the 94th General Assembly, Second Regular Session, authorized under the provisions of House Bill Section 17.390, an Act of the 94th General Assembly, Second Regular Session, and most recently authorized under the provisions of House Bill Section 17.140, an Act of the 95th General Assembly, First Regular Session  
 From Lewis and Clark Discovery Fund. . . . . \$27,689,536

**SECTION 17.030.**— To the University of Missouri

For the planning and design of a new Nursing/Health Professions School on the Columbia campus  
 Representing expenditures originally authorized under the provisions of House Bill Section 23.019, an Act of the 94th General Assembly, Second Regular Session, and most recently authorized under the provisions of House Bill Section 17.190, an Act of the 95th General Assembly, First Regular Session  
 From Bingo Proceeds for Education Fund. . . . . \$253,743

**SECTION 17.031.**— To the University of Missouri

For the planning, design, renovation, and construction at the Ellis Fischel Cancer and Medical Education Center on the Columbia campus  
 Representing expenditures originally authorized under the provisions of House Bill Section 19.005, authorized under the provision of House Bill Section 16.005, an Act of the 94th General Assembly, Second Regular Session, and most recently authorized under the provisions of House Bill Section 17.150, an Act of the 95th General Assembly, First Regular Session

From Lewis and Clark Discovery Fund. . . . . \$30,837,051

**SECTION 17.035.**— To the University of Missouri

For the planning, design, renovation, and improvements at Missouri

Agricultural Experiment Station facilities

Representing expenditures originally authorized under the provisions of House Bill Section 23.021, an Act of the 94th General Assembly, Second Regular Session, and most recently authorized under the provisions of House Bill Section 17.200, an Act of the 95th General Assembly, First Regular Session

From General Revenue Fund. . . . . \$619,708

**SECTION 17.040.**— To the Department of Transportation

For Port Authority Capital Improvements

For infrastructure development of Missouri ports

Representing expenditures originally authorized under the provisions of House Bill Section 23.025, an Act of the 94th General Assembly, Second Regular Session, and most recently authorized under the provisions of House Bill Section 17.205, an Act of the 95th General Assembly, First Regular Session

For the St. Joseph Regional Port Authority

From General Revenue Fund. . . . . \$97,768

**SECTION 17.045.**— To the Office of Administration

For the Division of Facilities, Management, Design and Construction

For maintenance, repairs, replacements, unprogrammed requirements, emergency requirements, and improvements at facilities statewide

Representing expenditures originally authorized under the provisions of House Bill Section 18.010, an Act of the 93rd General Assembly, First Regular Session, authorized under the provisions of House Bill Section 17.045, an Act of the 94th General Assembly, First Regular Session, authorized under the provisions of House Bill Section 18.010, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 17.215, an Act of the 95th General Assembly, First Regular Session

From Facilities Maintenance Reserve Fund. . . . . \$218,722

From Special Employment Security Fund. . . . . 391,377

Total. . . . . \$610,099

**SECTION 17.050.**— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For planning, design, renovation, maintenance, repair, and construction for security upgrades and other improvements at the Capitol Building and Governor's Mansion

Representing expenditures originally authorized under the provisions of House Bill Section 23.040, an Act of the 94th General Assembly, Second Regular Session, and most recently authorized under the provisions of House Bill Section 17.260, an Act of the 95th General Assembly, First Regular Session

From General Revenue Fund. . . . . \$220,391

From Facilities Maintenance Reserve Fund. . . . . 1,485,012

Total. . . . . \$1,705,403

**SECTION 17.055.**— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For maintenance, repairs, replacements, unprogrammed requirements,  
emergency requirements, operational maintenance and repair, and  
improvements at facilities statewide

Representing expenditures originally authorized under the provisions  
of House Bill Section 22.030, an Act of the 95th General Assembly,  
First Regular Session

From Facilities Maintenance Reserve Fund. . . . . \$1,040,576

From Office of Administration Revolving Administrative Trust Fund. . . . . 172,183

From Veterans' Commission Capital Improvement Trust Fund. . . . . 499,202

Total. . . . . \$1,711,961

**SECTION 17.060.**— To the Office of Administration

For maintenance, repairs, replacements, unprogrammed requirements,  
emergency requirements, and improvements for the following department

Representing expenditures originally authorized under the provisions  
of House Bill Section 22.040, an Act of the 95th General Assembly,  
First Regular Session

For the Department of Mental Health

From Facilities Maintenance Reserve Fund. . . . . \$8,106,777

**SECTION 17.065.**— To the Department of Natural Resources

For the Division of State Parks

For maintenance, repairs, replacements, renovations, and improvements  
at park and campground facilities statewide

Representing expenditures originally authorized under the provisions  
of House Bill Section 18.040, an Act of the 93rd General Assembly,  
First Regular Session, authorized under the provisions of House Bill  
Section 17.090, an Act of the 94th General Assembly, First Regular  
Session, authorized under the provisions of House Bill Section  
18.060, an Act of the 94th General Assembly, First Regular Session,  
authorized under the provisions of House Bill Section 23.063, an  
Act of the 94th General Assembly, Second Regular Session, and most  
recently authorized under the provisions of House Bill Section 17.305,  
an Act of the 95th General Assembly, First Regular Session

From State Park Earnings Fund. . . . . \$673,413

**SECTION 17.070.**— To the Department of Natural Resources

For the Division of State Parks

For design, renovation, construction, and improvements of state parks

Representing expenditures originally authorized under the provisions  
of House Bill Section 19.010, an Act of the 93rd General Assembly,  
First Regular Session, authorized under the provisions of House Bill  
Section 17.095, an Act of the 94th General Assembly, First Regular  
Session, authorized under the provisions of House Bill Section  
23.060, an Act of the 94th General Assembly, Second Regular Session,  
and most recently authorized under the provisions of House Bill  
Section 17.310, an Act of the 95th General Assembly, First Regular



Session  
From State Park Earnings Fund. . . . . \$716,727

**SECTION 17.080.**— To the Department of Natural Resources

For the Division of State Parks

For capital improvement expenditures from recoupments, donations, and grants

Representing expenditures originally authorized under the provisions of House Bill Section 18.065, an Act of the 94th General Assembly, First Regular Session, authorized under the provisions of House Bill Section 20.030, an Act of the 94th General Assembly, Second Regular Session, authorized under the provisions of House Bill Section 16.040, an Act of the 94th General Assembly, Second Regular Session, and most recently authorized under the provisions of House Bill Section 17.335, an Act of the 95th General Assembly, First Regular Session

From Natural Resources Protection Fund. . . . . \$912,504

**SECTION 17.085.**— To the Department of Natural Resources

For the Division of State Parks

For planned and unforeseen maintenance, renovation, and replacement

projects for the state parks and historic properties system

Representing expenditures originally authorized under the provisions of House Bill Section 22.185, an Act of the 95th General Assembly, First Regular Session

From Parks Sales Tax Fund. . . . . \$1,449,550

**SECTION 17.090.**— To the Department of Natural Resources

For the Division of State Parks

For water and wastewater improvements for the state parks and historic properties system

Representing expenditures originally authorized under the provisions of House Bill Section 22.190, an Act of the 95th General Assembly, First Regular Session

From Parks Sales Tax Fund. . . . . \$1,500,000

From State Park Earnings Fund. . . . . 2,000,000

Total. . . . . \$3,500,000

**SECTION 17.095.**— To the Department of Natural Resources

For the Division of State Parks

For maintenance and repair to existing roadways, parking areas, and trails at state parks and historic properties statewide

Representing expenditures originally authorized under the provisions of House Bill Section 22.195, an Act of the 95th General Assembly, First Regular Session

From State Parks Earnings Fund. . . . . \$780,000

**SECTION 17.100.**— To the Department of Natural Resources

For the Division of State Parks

For unforeseen maintenance, repairs, and improvements to state parks and historic sites statewide

Representing expenditures originally authorized under the provisions of House Bill Section 22.205, an Act of the 95th General Assembly,

First Regular Session  
From Parks Sale Tax Fund. . . . . \$725,063

**SECTION 17.105.**— To the Department of Natural Resources

For the Division of State Parks

For capital improvement expenditures from recoupments, donations, and grants

Representing expenditures originally authorized under the provisions  
of House Bill Section 22.210, an Act of the 95th General Assembly,

First Regular Session

From Federal Funds and Other Funds. . . . . \$6,875,491E

**SECTION 17.110.**— To the Department of Natural Resources

For the Division of State Parks

For design, renovation, construction, and improvements of state parks

Representing expenditures originally authorized under the provisions  
of House Bill Section 22.215, an Act of the 95th General Assembly,

First Regular Session

From State Park Earnings Fund. . . . . \$1,400,000

**SECTION 17.115.**— To the Department of Natural Resources

For the Division of State Parks

For adjacent land purchases

Representing expenditures originally authorized under the provisions  
of House Bill Section 22.220, an Act of the 95th General Assembly,

First Regular Session

From State Park Earnings Fund. . . . . \$888,245

**SECTION 17.120.**— To the Department of Natural Resources

For the Division of State Parks

For replacement of existing, or installation of new interpretive exhibits  
within state parks and historic sites statewide

Representing expenditures originally authorized under the provisions  
of House Bill Section 22.225, an Act of the 95th General Assembly,

First Regular Session

From State Park Earnings Fund. . . . . \$699,970

**SECTION 17.125.**— To the Department of Conservation

For stream access acquisition and development; lake site acquisition and

development; financial assistance to other public agencies or in  
partnership with other public agencies; land acquisition for upland  
wildlife, state forests, wetlands, and natural areas and additions to  
existing areas; for major improvements and repairs (including materials,  
supplies, and labor) to buildings, roads, hatcheries, and other  
departmental structures; and for soil conservation activities and  
erosion control on department land

Representing expenditures originally authorized under the provisions  
of House Bill Section 22.235, an Act of the 95th General Assembly,

First Regular Session

From Conservation Commission Fund. . . . . \$46,000,000

**SECTION 17.130.**— To the Office of Administration

For the Department of Labor and Industrial Relations  
 For maintenance, repairs, replacements, and improvements at  
   Employment Security and Job Service facilities  
   Representing expenditures originally authorized under the provisions  
   of House Bill Section 18.055, an Act of the 93rd General Assembly,  
   First Regular Session, authorized under the provisions of House Bill  
   Section 17.120, an Act of the 94th General Assembly, First Regular  
   Session, authorized under the provisions of House Bill Section 18.070,  
   an Act of the 94th General Assembly, First Regular Session, and  
   most recently authorized under the provisions of House Bill Section  
   17.370, an Act of the 95th General Assembly, First Regular Session  
 From Special Employment Security Fund. . . . . \$581,280

**SECTION 17.135.**— To the Office of Administration

For the Department of Public Safety  
 For repairs, replacements, and improvements at Missouri State Highway  
   Patrol facilities  
   Representing expenditures originally authorized under the provisions  
   of House Bill Section 18.060, an Act of the 93rd General Assembly,  
   First Regular Session, authorized under the provisions of House Bill  
   Section 17.130, an Act of the 94th General Assembly, First Regular  
   Session, authorized under the provisions of House Bill Section  
   18.080, an Act of the 94th General Assembly, First Regular Session,  
   and most recently authorized under the provisions of House Bill  
   Section 17.385, an Act of the 95th General Assembly, First Regular Session  
 From State Highways and Transportation Department Fund. . . . . \$402,835

**SECTION 17.140.**— To the Office of Administration

For the Department of Public Safety  
 For planning, design, and installation of new emergency generators at  
   veterans' homes statewide  
   Representing expenditures originally authorized under the provisions  
   of House Bill Section 20.045, an Act of the 94th General Assembly,  
   Second Regular Session, authorized under the provisions of House  
   Bill Section 16.060, an Act of the 94th General Assembly, Second  
   Regular Session, and most recently authorized under the provisions  
   of House Bill Section 17.435, an Act of the 95th General Assembly,  
   First Regular Session  
 From Veterans' Commission Capital Improvement Trust Fund. . . . . \$744,599

**SECTION 17.145.**— To the Office of Administration

For the Adjutant General - Missouri National Guard  
 For federal environmental compliance at non-armory facilities  
   Representing expenditures originally authorized under the provisions  
   of House Bill Section 19.060, an Act of the 93rd General Assembly,  
   First Regular Session, authorized under the provisions of House Bill  
   Section 17.180, an Act of the 94th General Assembly, First Regular  
   Session, authorized under the provisions of House Bill Section 23.085,  
   an Act of the 94th General Assembly, Second Regular Session, and  
   most recently authorized under the provisions of House Bill Section  
   17.455, an Act of the 95th General Assembly, First Regular Session

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From Federal Funds. . . . . \$1,770,313E

**SECTION 17.150.**— To the Office of Administration

For the Adjutant General - Missouri National Guard

For planning, design, and construction of an aviation hangar and  
maintenance facility in Springfield

Representing expenditures originally authorized under the provisions  
of House Bill Section 19.085, an Act of the 93rd General Assembly,  
First Regular Session, authorized under the provisions of House Bill  
Section 17.205, an Act of the 94th General Assembly, First Regular  
Session, and most recently authorized under the provisions of House  
Bill Section 17.480, an Act of the 95th General Assembly, First  
Regular Session

From Federal Funds. . . . . \$39,966,144E

**SECTION 17.155.**— To the Office of Administration

For the Department of Public Safety

For emergency generators at various veterans' homes

Representing expenditures originally authorized under the provisions  
of House Bill Section 22.085, an Act of the 95th General Assembly,  
First Regular Session

From Veterans' Commission Capital Improvement Trust Fund. . . . . \$4,595,799

From Federal Funds . . . . . 4,890,580E

Total. . . . . \$9,486,379

**SECTION 17.160.**— To the Office of Administration

For the Department of Public Safety

For sprinkler installation at the St. James Veterans' Home

Representing expenditures originally authorized under the provisions  
of House Bill Section 22.090, an Act of the 95th General Assembly,  
First Regular Session

From Veterans' Commission Capital Improvement Trust Fund. . . . . \$1,644,372

From Federal Funds. . . . . 1E

Total. . . . . \$1,644,373

**SECTION 17.165.**— To the Office of Administration

For the Department of Public Safety

For roof replacement at the St. James Veterans' Home

Representing expenditures originally authorized under the provisions  
of House Bill Section 22.095, an Act of the 95th General Assembly,  
First Regular Session

From Veterans' Commission Capital Improvement Trust Fund. . . . . \$935,387

From Federal Funds. . . . . 1E

Total. . . . . \$935,388

**SECTION 17.170.**— To the Office of Administration

For the Department of Public Safety

For construction of a solarium at the Warrensburg Veterans' Home

Representing expenditures originally authorized under the provisions  
of House Bill Section 22.105, an Act of the 95th General Assembly,  
First Regular Session

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From Veterans' Commission Capital Improvement Trust Fund. . . . .	\$278,684
From Federal Funds. . . . .	<u>1E</u>
Total. . . . .	\$278,685

**SECTION 17.175.**— To the Office of Administration

For the Department of Public Safety

For construction of a new chapel and renovation of the existing chapel for  
 conference/training room space at the Warrensburg Veterans' Home  
 Representing expenditures originally authorized under the provisions  
 of House Bill Section 22.110, an Act of the 95th General Assembly,  
 First Regular Session

From Veterans' Commission Capital Improvement Trust Fund. . . . .	\$864,327
From Federal Funds. . . . .	<u>1E</u>
Total. . . . .	\$864,328

**SECTION 17.180.**— To the Office of Administration

For the Department of Public Safety

For construction of a solarium at the Cameron Veterans' Home  
 Representing expenditures originally authorized under the provisions  
 of House Bill Section 22.111, an Act of the 95th General Assembly,  
 First Regular Session

From Veterans' Commission Capital Improvement Trust Fund. . . . .	\$288,819
From Federal Funds. . . . .	<u>1E</u>
Total. . . . .	\$288,820

**SECTION 17.185.**— To the Office of Administration

For the Department of Public Safety

For construction of a new chapel and renovation of the existing chapel for  
 conference/training room space at the Cameron Veterans' Home  
 Representing expenditures originally authorized under the provisions  
 of House Bill Section 22.112, an Act of the 95th General Assembly,  
 First Regular Session

From Veterans' Commission Capital Improvement Trust Fund. . . . .	\$767,414
From Federal Funds. . . . .	<u>1E</u>
Total. . . . .	\$767,415

**SECTION 17.190.**— To the Office of Administration

For the Department of Public Safety

For construction of a new columbarium wall and spoils area at the  
 Higginsville Veterans' Cemetery  
 Representing expenditures originally authorized under the provisions  
 of House Bill Section 22.115, an Act of the 95th General Assembly,  
 First Regular Session

From Veterans' Commission Capital Improvement Trust Fund. . . . .	\$2,550,996
From Federal Funds . . . . .	<u>1,093,479E</u>
Total. . . . .	\$3,644,475

**SECTION 17.195.**— To the Office of Administration

For the Department of Public Safety

For construction of a new columbarium wall at the Springfield Veterans' Cemetery  
 Representing expenditures originally authorized under the provisions

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of House Bill Section 22.120, an Act of the 95th General Assembly,  
First Regular Session  
From Veterans' Commission Capital Improvement Trust Fund. . . . . \$1,476,403  
From Federal Funds. . . . . 444,836E  
Total. . . . . \$1,921,239

**SECTION 17.200.**— To the Office of Administration  
For the Adjutant General - Missouri National Guard  
For statewide maintenance and repair at National Guard facilities  
Representing expenditures originally authorized under the provisions  
of House Bill Section 22.125, an Act of the 95th General Assembly,  
First Regular Session  
From Federal Funds. . . . . \$3,924,851E

**SECTION 17.205.**— To the Office of Administration  
For the Adjutant General - Missouri National Guard  
For design and construction of National Guard facilities statewide  
Representing expenditures originally authorized under the provisions  
of House Bill Section 22.130, an Act of the 95th General Assembly,  
First Regular Session  
From Federal Funds. . . . . \$1,736,595E

**SECTION 17.210.**— To the Office of Administration  
For the Adjutant General - Missouri National Guard  
For construction of a new National Guard readiness center in Boonville  
Representing expenditures originally authorized under the provisions  
of House Bill Section 22.135, an Act of the 95th General Assembly,  
First Regular Session  
From General Revenue Fund. . . . . \$547,873  
From Federal Funds . . . . . 1,657,945E  
Total. . . . . \$2,205,818

**SECTION 17.215.**— To the Office of Administration  
For the Department of Corrections  
For maintenance, repairs, replacements, and improvements at facilities statewide  
Representing expenditures originally authorized under the provisions  
of House Bill Section 18.100, an Act of the 94th General Assembly,  
First Regular Session, and most recently authorized under the provisions  
of House Bill Section 17.520, an Act of the 95th General Assembly,  
First Regular Session  
From Facilities Maintenance Reserve Fund. . . . . \$1,994,625

**SECTION 17.220.**— To the Office of Administration  
For the Department of Corrections  
For construction, renovations, and improvements at the Ozark Correctional  
Center sewer treatment plant  
Representing expenditures originally authorized under the provisions  
of House Bill Section 23.090, an Act of the 94th General Assembly,  
Second Regular Session, and most recently authorized under the  
provisions of House Bill Section 17.525, an Act of the 95th General  
Assembly, First Regular Session

From General Revenue Fund. . . . . \$676,045

**SECTION 17.225.**— To the Office of Administration

For the Department of Corrections

For roof replacement at the Missouri Vocational Enterprises facility

Representing expenditures originally authorized under the provisions  
of House Bill Section 22.155, an Act of the 95th General Assembly,  
First Regular Session

From Working Capital Revolving Fund. . . . . \$366,329

**SECTION 17.230.**— To the Office of Administration

For the Department of Mental Health

For fuel spill remediation at Fulton State Hospital

Representing expenditures originally authorized under the provisions  
of House Bill Section 21.040, an Act of the 93rd General Assembly,  
Second Regular Session, authorized under the provisions of House  
Bill Section 17.240, an Act of the 94th General Assembly, First  
Regular Session, and most recently authorized under the provisions  
of House Bill Section 17.535, an Act of the 95th General Assembly,  
First Regular Session

From General Revenue Fund. . . . . \$328,538

**SECTION 17.235.**— To the Office of Administration

For the Department of Mental Health

For planning, design, and construction of wards at the Missouri Sexual  
Offender Treatment Center

Representing expenditures originally authorized under the provisions  
of House Bill Section 21.045, an Act of the 93rd General Assembly,  
Second Regular Session, authorized under the provisions of House  
Bill Section 17.245, an Act of the 94th General Assembly, First  
Regular Session, and most recently authorized under the provisions  
of House Bill Section 17.540, an Act of the 95th General Assembly,  
First Regular Session

From General Revenue Fund. . . . . \$1,184,134

**SECTION 17.240.**— To the Office of Administration

For the Department of Mental Health

For maintenance, repairs, replacements, and improvements at facilities statewide

Representing expenditures originally authorized under the provisions  
of House Bill Section 18.105, an Act of the 94th General Assembly,  
First Regular Session, and most recently authorized under the  
provisions of House Bill Section 17.545, an Act of the 95th General  
Assembly, First Regular Session

From Facilities Maintenance Reserve Fund. . . . . \$2,293,936

**SECTION 17.245.**— To the Office of Administration

For the Department of Mental Health

For planning, design, construction, and improvements at the

Bellefontaine Habilitation Center

Representing expenditures originally authorized under the provisions  
of House Bill Section 22.160, an Act of the 95th General Assembly,

First Regular Session  
 From Federal Budget Stabilization Fund. . . . . \$7,970,830

**SECTION 17.250.**— To the Office of Administration

For the Department of Social Services

For maintenance, repairs, replacements, and improvements at facilities statewide

Representing expenditures originally authorized under the provisions  
 of House Bill Section 18.110, an Act of the 94th General Assembly,  
 First Regular Session, and most recently authorized under the provisions  
 of House Bill Section 17.570, an Act of the 95th General Assembly,  
 First Regular Session

From Facilities Maintenance Reserve Fund. . . . . \$489,929

Approved June 10, 2011

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**HB 18 [SCS HCS HB 18]**

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**APPROPRIATIONS: CAPITAL IMPROVEMENT PROJECTS INVOLVING THE MAINTENANCE, REPAIR, REPLACEMENT, AND IMPROVEMENT OF STATE BUILDINGS AND FACILITIES.**

AN ACT to appropriate money for purposes for the several departments and offices of state government; for the purchase of equipment; for planning, expenses, and for capital improvements including but not limited to major additions and renovations, new structures, and land improvements; and for the payment of various claims for refunds, for persons, firms, and corporations, and for other purposes, and to transfer money among certain funds, from the funds designated to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the fiscal period beginning July 1, 2011 and ending June 30, 2013.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, chargeable to the fund and for the agency and purpose designated, for the period beginning July 1, 2011 and ending June 30, 2013, the unexpended balances available as of June 30, 2011, but not to exceed the amounts stated herein, as follows:

**SECTION 18.005.**— To the Department of Elementary and Secondary Education

For Enhancing Education through Technology projects

Representing expenditures originally authorized under the provisions  
 of House Bill Section 21.025, an Act of the 95th General Assembly,  
 First Regular Session, and most recently authorized under the provisions  
 of House Bill Section 16.015, an Act of the 95th General Assembly,  
 Second Regular Session

From Federal Stimulus Fund. . . . . \$2,524,589

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**SECTION 18.010.**— To the Department of Elementary and Secondary Education  
 For the Title I Education for Disadvantaged. . . . . \$46,868,296  
 For the Title I School Improvement . . . . . 37,000,000  
     Representing expenditures originally authorized under the provisions  
     of House Bill Section 21.030, an Act of the 95th General Assembly,  
     First Regular Session, and most recently authorized under the provisions  
     of House Bill Section 16.020, an Act of the 95th General Assembly,  
     Second Regular Session  
 From Federal Stimulus Fund. . . . . \$83,868,296

**SECTION 18.015.**— To the Department of Elementary and Secondary Education  
 For grants to program innovative educational strategies for Homeless Children  
 (McKinney-Vento)  
     Representing expenditures originally authorized under the provisions  
     of House Bill Section 21.035, an Act of the 95th General Assembly,  
     First Regular Session, and most recently authorized under the provisions  
     of House Bill Section 16.025, an Act of the 95th General Assembly,  
     Second Regular Session  
 From Federal Stimulus Fund. . . . . \$447,929

**SECTION 18.018.**— To the Department of Elementary and Secondary Education  
 For Vocational Rehabilitation programs  
     Representing expenditures originally authorized under the provisions  
     of House Bill Section 21.040, an Act of the 95th General Assembly,  
     First Regular Session, and most recently authorized under the provisions  
     of House Bill Section 16.030, an Act of the 95th General Assembly,  
     Second Regular Session  
 From Federal Stimulus Fund. . . . . \$441,567

**SECTION 18.020.**— To the Department of Elementary and Secondary Education  
 For Special Education programs  
     Representing expenditures originally authorized under the provisions  
     of House Bill Section 21.050, an Act of the 95th General Assembly,  
     First Regular Session, and most recently authorized under the provisions  
     of House Bill Section 16.040, an Act of the 95th General Assembly,  
     Second Regular Session  
 From Federal Stimulus Fund. . . . . \$50,000,000

**SECTION 18.025.**— To the Department of Elementary and Secondary Education  
 For the First Steps Program  
     Representing expenditures originally authorized under the provisions  
     of House Bill Section 21.055, an Act of the 95th General Assembly,  
     First Regular Session, and most recently authorized under the provisions  
     of House Bill Section 16.045, an Act of the 95th General Assembly,  
     Second Regular Session  
 From Federal Stimulus Fund. . . . . \$1,500,000

**SECTION 18.035.**— To the Department of Transportation  
 For Construction and Maintenance Programs  
 Funds are to be transferred out of the State Treasury, chargeable to the  
     Federal Stimulus Fund, to the State Road Fund, for reimbursement

of expenditures for highway and bridge infrastructure investment projects  
 Representing expenditures originally authorized under the provisions of House Bill Section 21.065, an Act of the 95th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 16.055, an Act of the 95th General Assembly, Second Regular Session  
 From Federal Stimulus Fund. . . . . \$83,000,000E

**SECTION 18.040.**— To the Department of Transportation

For the Transit Program

Funds are to be transferred out of the State Treasury, chargeable to the Federal Stimulus Fund, to the Multimodal Federal Fund, for expenditures for public transportation or intercity bus service, the OATS Northeast Regional Transit Facility - Macon, and the SMTS Regional Transit Facility - Poplar Bluff  
 Representing expenditures originally authorized under the provisions of House Bill Section 21.075, an Act of the 95th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 16.065, an Act of the 95th General Assembly, Second Regular Session  
 From Federal Stimulus Fund. . . . . \$3,850,000

**SECTION 18.045.**— To the Department of Transportation

For the Rail Program

Funds are to be transferred out of the State Treasury, chargeable to the Federal Stimulus Fund, to the Multimodal Federal Fund, including a feasibility study for corridor expansion in Missouri to the extent the state receives a federal grant for such purposes  
 Representing expenditures originally authorized under the provisions of House Bill Section 21.080, an Act of the 95th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 16.075, an Act of the 95th General Assembly, Second Regular Session  
 From Federal Stimulus Fund. . . . . \$33,322,000

**SECTION 18.050.**— To the Office of Administration

For broadband technology opportunities

Representing expenditures originally authorized under the provisions of House Bill Section 21.115, an Act of the 95th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 16.110, an Act of the 95th General Assembly, Second Regular Session  
 From Federal Stimulus Fund. . . . . \$8,829,383E

**SECTION 18.055.**— To the Office of Administration

For planning and implementation of electronic healthcare information technology

Representing expenditures originally authorized under the provisions of House Bill Section 21.125, an Act of the 95th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 16.115, an Act of the 95th General Assembly,

Second Regular Session  
From Federal Stimulus Fund. . . . . \$11,220,823

**SECTION 18.060.**— To the Department of Agriculture

For the purpose of receiving and expending grants from the American  
Recovery and Reinvestment Act for grants related to food, fuel, and  
fiber production, processing and marketing  
Representing expenditures originally authorized under the provisions  
of House Bill Section 21.160, an Act of the 95th General Assembly,  
First Regular Session, and most recently authorized under the provisions  
of House Bill Section 16.120, an Act of the 95th General Assembly,  
Second Regular Session  
From Federal Stimulus Fund. . . . . \$3,734,508

**SECTION 18.075.**— To the Department of Natural Resources

For the promotion of energy, renewable energy, and energy efficiency,  
including administrative costs  
Representing expenditures originally authorized under the provisions  
of House Bill Section 21.175, an Act of the 95th General Assembly,  
First Regular Session, and most recently authorized under the provisions  
of House Bill Section 16.135, an Act of the 95th General Assembly,  
Second Regular Session  
From Federal Stimulus Fund. . . . . \$101,795,122

**SECTION 18.080.**— To the Department of Natural Resources

For grants, contracts or loans pursuant to Sections 644.026 through 644.124,  
RSMo, including but not limited to infrastructure to create immediate  
economic benefit through the creation of construction jobs, long-term  
economic benefits as on-going jobs are created to operate these  
facilities and administrative costs  
Representing expenditures originally authorized under the provisions  
of House Bill Section 21.180, an Act of the 95th General Assembly,  
First Regular Session, and most recently authorized under the provisions  
of House Bill Section 16.140, an Act of the 95th General Assembly,  
Second Regular Session  
From Water and Wastewater Loan Fund. . . . . \$23,916,429E

For grants, contracts or loans for drinking water systems pursuant to Sections  
644.026 through 644.124, RSMo, including but not limited to infrastructure  
to create immediate economic benefit through the creation of construction  
jobs, long-term economic benefits as on-going jobs are created to operate  
these facilities and administrative costs  
Representing expenditures originally authorized under the provisions  
of House Bill Section 21.180, an Act of the 95th General Assembly,  
First Regular Session, and most recently authorized under the provisions  
of House Bill Section 16.140, an Act of the 95th General Assembly,  
Second Regular Session  
From Federal Stimulus Fund . . . . . 1,893,279  
From Water and Wastewater Loan Fund. . . . . 3,237,648E  
Total. . . . . \$29,047,356

**SECTION 18.085.**— To the Department of Natural Resources

For grants and contracts to study or reduce water pollution, improve ground water and/or surface water quality

Representing expenditures originally authorized under the provisions of House Bill Section 21.185, an Act of the 95th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 16.145, an Act of the 95th General Assembly, Second Regular Session

From Federal Stimulus Fund. . . . . \$528,629E

**SECTION 18.090.**— To the Department of Conservation

For the control, management, restoration, conservation and regulation of the bird, fish, game, forestry and all wildlife resources of the state, including administrative costs

Representing expenditures originally authorized under the provisions of House Bill Section 21.205, an Act of the 95th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 16.160, an Act of the 95th General Assembly, Second Regular Session

From Federal Stimulus Fund. . . . . \$1,500,000

**SECTION 18.095.**— To the Department of Economic Development

For the purpose of receiving and expending grants for the Community Development Block Grant Program, including administrative costs.

To the extent permitted by law, the department, in coordination with other departments of the state, shall contact maternity homes and pregnancy resource centers qualified under Sections 135.600 and 135.630, RSMo, regarding grants under this section, Section 18.180, and other funds under the American Recovery and Reinvestment Act of 2009 (ARRA). The departments shall make it possible for maternity homes and pregnancy resource centers in all areas of the state, including urban and "continuum of care" areas, to be eligible for grant and funding opportunities. To the extent permitted by law, the departments shall allocate at least \$2,000,000 in the aggregate from this section, Section 18.180, and other ARRA funds for grant and funding opportunities for maternity homes and pregnancy resource centers. The departments shall report in writing to the Chairman of the Senate Appropriations Committee and the Chairman of the House Budget Committee on their efforts and on grants and funds received by maternity homes and pregnancy resource centers

Representing expenditures originally authorized under the provisions of House Bill Section 21.220, an Act of the 95th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 16.170, an Act of the 95th General Assembly, Second Regular Session

From Federal Stimulus Fund. . . . . \$4,044,606

**SECTION 18.100.**— To the Department of Economic Development

For the purpose of receiving and expending grants for economic development assistance, including administrative costs

Representing expenditures originally authorized under the provisions  
of House Bill Section 21.230, an Act of the 95th General Assembly,  
First Regular Session, and most recently authorized under the provisions  
of House Bill Section 16.175, an Act of the 95th General Assembly,  
Second Regular Session  
From Federal Stimulus Fund. . . . . \$200,000E

**SECTION 18.105.**— To the Department of Economic Development  
For the purpose of receiving and expending grants for the Dislocated  
Workers Assistance National Reserve Program  
Representing expenditures originally authorized under the provisions  
of House Bill Section 21.255, an Act of the 95th General Assembly,  
First Regular Session, and most recently authorized under the provisions  
of House Bill Section 16.195, an Act of the 95th General Assembly,  
Second Regular Session  
From Federal Stimulus Fund. . . . . \$800,000

**SECTION 18.110.**— To the Department of Economic Development  
For the purpose of receiving and expending grants for the Emerging  
Industry Competitive Grants Program  
Representing expenditures originally authorized under the provisions  
of House Bill Section 21.265, an Act of the 95th General Assembly,  
First Regular Session, and most recently authorized under the provisions  
of House Bill Section 16.200, an Act of the 95th General Assembly,  
Second Regular Session  
From Federal Stimulus Fund. . . . . \$5,286,892

**SECTION 18.115.**— To the Department of Labor and Industrial Relations  
For administration of unemployment insurance programs  
Representing expenditures originally authorized under the provisions  
of House Bill Section 21.275, an Act of the 95th General Assembly,  
First Regular Session, and most recently authorized under the provisions  
of House Bill Section 16.210, an Act of the 95th General Assembly,  
Second Regular Session  
From Federal Stimulus Fund. . . . . \$100,000E

**SECTION 18.125.**— To the Department of Public Safety  
For the purpose of receiving and expending grants from the American  
Recovery and Reinvestment Act for the Rural Law Enforcement  
Competitive Grant and the Byrne Memorial Competitive Grant  
Representing expenditures originally authorized under the provisions  
of House Bill Section 21.290, an Act of the 95th General Assembly,  
First Regular Session, and most recently authorized under the provisions  
of House Bill Section 16.220, an Act of the 95th General Assembly,  
Second Regular Session  
From Federal Stimulus Fund. . . . . \$1,566,324

**SECTION 18.130.**— To the Department of Public Safety  
For the purpose of receiving and expending grants for the Violence Against  
Women Program, including administrative costs  
Representing expenditures originally authorized under the provisions

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of House Bill Section 21.295, an Act of the 95th General Assembly,  
First Regular Session, and most recently authorized under the provisions  
of House Bill Section 16.225, an Act of the 95th General Assembly,  
Second Regular Session  
From Federal Stimulus Fund. . . . . \$440,000

**SECTION 18.135.**— To the Department of Public Safety  
For the purpose of receiving and expending grants for the Crime Victims  
Assistance Grants Program, including administrative costs  
Representing expenditures originally authorized under the provisions  
of House Bill Section 21.305, an Act of the 95th General Assembly,  
First Regular Session, and most recently authorized under the provisions  
of House Bill Section 16.230, an Act of the 95th General Assembly,  
Second Regular Session  
From Federal Stimulus Fund. . . . . \$25,000

**SECTION 18.140.**— To the Department of Public Safety  
For the purpose of receiving and expending grants for the  
Byrne/Justice Assistance Grants Program, including \$700,000 for  
a pseudoephedrine tracking system administered in conjunction with  
the Department of Health and Senior Services and administrative  
costs to the extent the state receives a federal grant for such purposes  
Representing expenditures originally authorized under the provisions  
of House Bill Section 21.310, an Act of the 95th General Assembly,  
First Regular Session, and most recently authorized under the provisions  
of House Bill Section 16.235, an Act of the 95th General Assembly,  
Second Regular Session  
From Federal Stimulus Fund. . . . . \$14,120,000E

**SECTION 18.145.**— To the Department of Health and Senior Services  
For the purpose of receiving and expending grants from the American  
Recovery and Reinvestment Act for grants made available to states  
from various federal public health and health care agencies, including  
the National Institute of Health, Agency for Health Care Research and  
Quality, and Institute of Medicine  
Representing expenditures originally authorized under the provisions  
of House Bill Section 21.325, an Act of the 95th General Assembly,  
First Regular Session, and most recently authorized under the provisions  
of House Bill Section 16.250, an Act of the 95th General Assembly,  
Second Regular Session  
From Federal Stimulus Fund. . . . . \$667,585

**SECTION 18.150.**— To the Department of Health and Senior Services  
For immunization related expenses, including administrative costs  
Representing expenditures originally authorized under the provisions  
of House Bill Section 21.330, an Act of the 95th General Assembly,  
First Regular Session, and most recently authorized under the provisions  
of House Bill Section 16.255, an Act of the 95th General Assembly,  
Second Regular Session  
From Federal Stimulus Fund. . . . . \$27,029

**SECTION 18.155.**— To the Department of Health and Senior Services  
For chronic disease prevention and management, including administrative costs  
Representing expenditures originally authorized under the provisions  
of House Bill Section 21.345, an Act of the 95th General Assembly,  
First Regular Session, and most recently authorized under the provisions  
of House Bill Section 16.265, an Act of the 95th General Assembly,  
Second Regular Session  
From Federal Stimulus Fund. . . . . \$1,338,381

**SECTION 18.160.**— To the Department of Health and Senior Services  
For reducing health care associated infections, including administrative costs  
Representing expenditures originally authorized under the provisions  
of House Bill Section 21.350, an Act of the 95th General Assembly,  
First Regular Session, and most recently authorized under the provisions  
of House Bill Section 16.270, an Act of the 95th General Assembly,  
Second Regular Session  
From Federal Stimulus Fund. . . . . \$123,593

**SECTION 18.165.**— To the Department of Health and Senior Services  
For a new management information system for the Women, Infants and  
Children Nutrition Program  
Representing expenditures originally authorized under the provisions  
of House Bill Section 21.355, an Act of the 95th General Assembly,  
First Regular Session, and most recently authorized under the provisions  
of House Bill Section 16.275, an Act of the 95th General Assembly,  
Second Regular Session  
From Federal Stimulus Fund. . . . . \$810,352

**SECTION 18.170.**— To the Department of Health and Senior Services  
For the Health Professional Loan Repayment Program  
Representing expenditures originally authorized under the provisions  
of House Bill Section 21.365, an Act of the 95th General Assembly,  
First Regular Session, and most recently authorized under the provisions  
of House Bill Section 16.285, an Act of the 95th General Assembly,  
Second Regular Session  
From Federal Stimulus Fund. . . . . \$30,000E

**SECTION 18.175.**— To the Department of Social Services  
For the purpose of receiving and expending grants related to capacity building  
initiatives for non-profit agencies; grants for providing services to individuals  
that address the economic recovery issues present in communities; grants  
for early childhood programs; grants to increase information and education  
technology, job readiness and employment services for youth in the care of  
the department, State Health Access Program grants; and grants for expanded  
treatment and education services for the Division of Youth Services  
Representing expenditures originally authorized under the provisions  
of House Bill Section 21.380, an Act of the 95th General Assembly,  
First Regular Session, and most recently authorized under the provisions  
of House Bill Section 16.295, an Act of the 95th General Assembly,  
Second Regular Session  
From Federal Stimulus Fund. . . . . \$888,524

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**SECTION 18.180.**— To the Department of Social Services

For Emergency Shelter grants and services and homeless prevention initiatives, including administrative costs. To the extent permitted by law, the department, in coordination with other departments of the state, shall contact maternity homes and pregnancy resource centers qualified under Sections 135.600 and 135.630, RSMo, regarding grants under this section, Section 18.095 and other funds under the American Recovery and Reinvestment Act of 2009 (ARRA). The departments shall make it possible for maternity homes and pregnancy resource centers in all areas of the state, including urban and "continuum of care" areas, to be eligible for grant and funding opportunities. To the extent permitted by law, the departments shall allocate at least \$2,000,000 in the aggregate from this section, Section 18.095, and other ARRA funds for grant and funding opportunities for maternity homes and pregnancy resource centers. The departments shall report in writing to the Chairman of the Senate Appropriations Committee and the Chairman of the House Budget Committee on their efforts and on grants and funds received by maternity homes and pregnancy resource centers

Representing expenditures originally authorized under the provisions of House Bill Section 21.400, an Act of the 95th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 16.315, an Act of the 95th General Assembly, Second Regular Session

From Federal Stimulus Fund. . . . . \$5,735,614

**SECTION 18.185.**— To the Department of Social Services

For Older Individuals with Blindness services for the visually impaired

Representing expenditures originally authorized under the provisions of House Bill Section 21.410, an Act of the 95th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 16.325, an Act of the 95th General Assembly, Second Regular Session

From Federal Stimulus Fund. . . . . \$290,550

**SECTION 18.190.**— To the Department of Social Services

For child care services and related programs and initiatives

Representing expenditures originally authorized under the provisions of House Bill Section 21.420, an Act of the 95th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 16.335, an Act of the 95th General Assembly, Second Regular Session

From Federal Stimulus Fund. . . . . \$8,773,619

**SECTION 18.195.**— To the Department of Social Services

For Department of Mental Health political subdivisions

For Enhanced Medicaid Match

Representing expenditures originally authorized under the provisions of House Bill Section 21.430, an Act of the 95th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 16.345, an Act of the 95th General Assembly, Second Regular Session



From Federal Budget Stabilization Fund. . . . . \$1,379,777E

**SECTION 18.200.**— To the Department of Social Services

For Department of Elementary and Secondary Education political subdivisions

For Enhanced Medicaid Match

Representing expenditures originally authorized under the provisions  
of House Bill Section 21.435, an Act of the 95th General Assembly,  
First Regular Session, and most recently authorized under the provisions  
of House Bill Section 16.350, an Act of the 95th General Assembly,  
Second Regular Session

From Federal Budget Stabilization Fund. . . . . \$58,641E

**SECTION 18.205.**— To the Department of Social Services

For Department of Social Services political subdivisions

For Enhanced Medicaid Match

Representing expenditures originally authorized under the provisions  
of House Bill Section 21.440, an Act of the 95th General Assembly,  
First Regular Session, and most recently authorized under the provisions  
of House Bill Section 16.355, an Act of the 95th General Assembly,  
Second Regular Session

From Federal Budget Stabilization Fund. . . . . \$1,870,736E

Approved June 10, 2011

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**HB 21 [SCS HCS HB 21]**

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**APPROPRIATIONS: CAPITAL IMPROVEMENT PROJECTS INVOLVING MAINTENANCE, REPAIR, REPLACEMENT, AND IMPROVEMENT OF STATE BUILDINGS AND FACILITIES.**

AN ACT to appropriate money for purposes for the several departments and offices of state government; for the purchase of equipment; for planning, expenses, and for capital improvement projects involving the maintenance, repair, replacement, and improvement of state buildings and facilities, including installation, modification, and renovation of facility components, equipment or systems; for grants, refunds, distributions, planning, expenses, and capital improvements including but not limited to major additions and renovations, new structures, and land improvements or acquisitions; and to transfer money among certain funds, from the funds designated for the fiscal period beginning July 1, 2011 and ending June 30, 2013.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

There is appropriated out of the State Treasury, for the agency, program, and purpose stated, chargeable to the fund designated for the period beginning July 1, 2011 and ending June 30, 2013, as follows:

**SECTION 21.010.**— Funds are to be transferred out of the State Treasury,

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chargeable to the General Revenue Fund, to the Facilities Maintenance Reserve Fund	
For Fiscal Year 2012. . . . .	\$70,882,154
For Fiscal Year 2013. . . . .	<u>70,000,000</u>
Total. . . . .	\$140,882,154

**SECTION 21.015.**— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For maintenance, repairs, replacements, unprogrammed requirements, emergency requirements, operational maintenance and repair, and improvements at facilities statewide

From Facilities Maintenance Reserve Fund. . . . .	\$140,882,154
From Bingo Proceeds for Education Fund . . . . .	900,000
From Veterans' Commission Capital Improvement Trust Fund . . . . .	700,000
From State Highways and Transportation Department Fund . . . . .	500,000
From Workers' Compensation Fund. . . . .	400,000
From Special Employment Security Fund. . . . .	200,000
From Department of Social Services Federal and Other Fund. . . . .	<u>276,486E</u>
Total. . . . .	\$143,858,640

**SECTION 21.020.**— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For receipt and disbursement of federal or state emergency management funds

From Federal Funds. . . . .	\$1E
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**SECTION 21.025.**— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For projects that are identified as having an energy savings payback and renewable energy opportunities at all state-owned facilities from grants and contributions, but not loans

From Grants and Contributions Fund. . . . .	\$1E
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**SECTION 21.040.**— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the receipt and disbursement of recovered costs related to capital improvements

From Office of Administration Revolving Administrative Trust Fund. . . . .	\$1E
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**SECTION 21.070.**— To the Department of Natural Resources

For the Division of State Parks

For planned and unforeseen maintenance, renovation and replacement projects for the state parks and historic properties system

From Parks Sales Tax Fund. . . . .	\$1,450,000
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**SECTION 21.075.**— To the Department of Natural Resources

For the Division of State Parks

For water and wastewater improvements for the state parks and historic properties system

From Parks Sales Tax Fund. . . . .	\$1,500,000
From State Park Earnings Fund. . . . .	<u>2,000,000</u>
Total. . . . .	\$3,500,000

**SECTION 21.080.**— To the Department of Natural Resources  
 For the Division of State Parks  
 For unforeseen maintenance, repairs, and improvements to state parks and  
     historic sites statewide due to catastrophic events  
 From Parks Sales Tax Fund. . . . . \$1,926,000

**SECTION 21.085.**— To the Department of Natural Resources  
 For the Division of State Parks  
 For maintenance and repair to existing roadways, parking areas, and trails  
     at state parks and historic properties statewide  
 From State Park Earnings Fund. . . . . \$780,000

**SECTION 21.090.**— To the Department of Natural Resources  
 For the Division of State Parks  
 For maintenance and repair expenditures from recoupments, donations, and grants  
 From Federal and Other Funds. . . . . \$100,000E

**SECTION 21.095.**— To the Department of Natural Resources  
 For the Division of State Parks  
 For acquisition, restoration, and marketing of endangered historic properties  
 From Historic Preservation Revolving Fund. . . . . \$1,000,000

**SECTION 21.100.**— To the Department of Natural Resources  
 For the Division of State Parks  
 For improvements and related expenses at Lake of the Ozarks State Park  
 From State Parks Earnings Fund. . . . . \$1,050,000

**SECTION 21.115.**— To the Office of Administration  
 For the Department of Public Safety  
 For repairs, replacements, and improvements at Missouri State Highway  
     Patrol facilities statewide  
 From State Highways and Transportation Department Fund. . . . . \$2,331,209

**SECTION 21.125.**— To the Office of Administration  
 For the Department of Public Safety  
 For repairs, replacements, and improvements at state veterans' homes  
 From Federal Funds. . . . . \$1E

**SECTION 21.135.**— To the Office of Administration  
 For the Adjutant General - Missouri National Guard  
 For statewide maintenance and repair at National Guard facilities  
 From Federal Funds. . . . . \$1E

**YEAR ONE BILL TOTALS**

General Revenue Fund. . . . .	\$70,882,154
Federal Funds. . . . .	163,246
Other Funds. . . . .	10,997,210
Total. . . . .	\$82,042,610

**YEAR TWO BILL TOTALS**

General Revenue Fund. . . . .	\$70,000,000
Federal Funds. . . . .	163,243
Other Funds. . . . .	<u>3,790,000</u>
Total. . . . .	\$73,953,243

Approved June 10, 2011

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HB 22 [SCS HCS HB 22]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**APPROPRIATIONS: PLANNING AND CAPITAL IMPROVEMENT PROJECTS AND LAND IMPROVEMENTS OR ACQUISITIONS AND TRANSFERS MONEY AMONG CERTAIN FUNDS.**

AN ACT to appropriate money for purposes for the several departments and offices of state government; for planning and capital improvements including but not limited to major additions and renovations, new structures, and land improvements or acquisitions; to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, from the funds herein designated for the fiscal period beginning July 1, 2011 and ending June 30, 2013.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

There is appropriated out of the State Treasury, for the agency, program, and purpose stated, chargeable to the fund designated for the period beginning July 1, 2011 and ending June 30, 2013, as follows:

**SECTION 22.005.**— To the Office of Administration  
For the Division of Facilities Management, Design and Construction  
For appraisals, land surveys, and environmental surveys of state facilities  
From General Revenue Fund. . . . . \$250,000

**SECTION 22.006.**— To the Office of Administration  
For the Division of Facilities Management, Design and Construction  
For cost of remediation activities at the old Missouri State Penitentiary site  
in Jefferson City  
From Working Capital Revolving Fund. . . . . \$500,000

**SECTION 22.010.**— To the Department of Natural Resources  
For the Division of State Parks  
For design, renovation, construction, and improvements of state parks  
From State Park Earnings Fund. . . . . \$1,400,000

**SECTION 22.015.**— To the Department of Natural Resources  
For the Division of State Parks  
For adjacent land purchases  
From State Park Earnings Fund. . . . . \$1,300,000

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**SECTION 22.020.**— To the Department of Natural Resources

For the Division of State Parks

For capital improvement expenditures from recoupments, donations, and grants

From Federal and Other Funds. . . . . \$100,000E

**SECTION 22.030.**— To the Department of Natural Resources

For the Division of State Parks

For replacement of existing, or installation of new interpretive exhibits  
within state parks and historic sites statewide

From State Park Earnings Fund. . . . . \$700,000

**SECTION 22.035.**— To the Department of ConservationFor stream access acquisition and development; lake site acquisition and  
development; financial assistance to other public agencies or in partnership  
with other public agencies; land acquisition for upland wildlife, state  
forests, wetlands, and natural areas and additions to existing areas; for  
major improvements and repairs (including materials, supplies, and labor)  
to buildings, roads, hatcheries, and other departmental structures; and for  
soil conservation activities and erosion control on department land

From Conservation Commission Fund. . . . . \$44,000,000

**SECTION 22.036.**— To the Department of Economic DevelopmentFor funding new and expanding industry programs and basic industry  
retraining programs in a home rule city with more than four hundred  
thousand inhabitants and located in more than one county

From Missouri Job Development Fund. . . . . \$1,500,000

**SECTION 22.040.**— To the Department of Economic Development

For the Missouri China Hub Commission

For planning, operation, implementation, design, construction, renovation,  
and improvement of Air Freight Development including a market  
analysis, economic impact analysis, technical support and market  
development, for the attraction of new freight air cargo route development  
to create greater opportunities for international exports of Missouri products

From General Revenue Fund. . . . . \$500,000

**SECTION 22.045.**— To the Office of Administration

For the Department of Public Safety

For the purpose of planning, designing, and constructing an addition to  
the existing Troop D in Springfield for evidence storage and office space

From State Highways and Transportation Department Fund. . . . . \$675,600

**SECTION 22.046.**— To the Office of Administration

For the Department of Public Safety

For the planning, design and construction of a new marine maintenance facility

From State Park Earnings Fund. . . . . \$1,050,000

**SECTION 22.050.**— To the Office of Administration

For the Department of Public Safety

For planning, design, and construction of a commercial drivers license

site in Hannibal  
From State Highways and Transportation Department Fund. . . . . \$1,400,000

**SECTION 22.055.**— To the Office of Administration

For the Department of Public Safety

For the construction, renovations, and improvements at state veterans' homes

From Federal Funds. . . . . \$1E

From Veterans' Commission Capital Improvement Trust Fund. . . . . 5,000,000

Total. . . . . \$5,000,001

**SECTION 22.060.**— To the Office of Administration

For the Adjutant General - Missouri National Guard

For design and construction of National Guard facilities statewide

From Federal Funds. . . . . \$1E

**SECTION 22.065.**— To the Office of Administration

For the Department of Public Safety

For a statewide interoperable communication system

From General Revenue Fund. . . . . \$17,000,000

**SECTION 22.070.**— To the Department of Transportation

For funding local and regional port authorities for construction, which includes  
planning, docks, buildings, roads, railroads, sewers, water and electric lines,  
land purchases, building purchases, landscaping, and equipment

From General Revenue Fund. . . . . \$1,000,000

**BILL TOTALS YEAR ONE**

General Revenue Fund. . . . . \$18,750,000

Federal Funds. . . . . 25,002

Other Funds. . . . . 31,350,600

Total. . . . . \$50,125,602

**BILL TOTALS YEAR TWO**

Federal Funds. . . . . 25,000

Other Funds. . . . . 26,225,000

Total. . . . . \$26,250,000

Approved June 10, 2011

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## HB 38 [SCS HCS HB 38]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Increases the work-off rate for city prisoners and requires certain administrative officials of jails or detention facilities to notify specified law enforcement of an escape of certain specified felons**

AN ACT to repeal section 71.220, RSMo, and to enact in lieu thereof two new sections relating to jails.

## SECTION

- A. Enacting clause.
- 71.220. City prisoners, labor on public works — fines payable in installments.
- 221.503. MULES to be notified of escape of a dangerous felon from certain jails and detention facilities, when, information to be included.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Section 71.220, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 71.220 and 221.503, to read as follows:

**71.220. CITY PRISONERS, LABOR ON PUBLIC WORKS — FINES PAYABLE IN INSTALLMENTS.** — 1. The various cities, towns and villages in this state, whether organized under special charter or under the general laws of the state, are hereby authorized and empowered to, by ordinance, cause all persons who have been convicted and sentenced by the court having jurisdiction, for violation of ordinance of such city, town or village, whether the punishment be by fine or imprisonment, or by both, to be put to work and perform labor on the public streets, highways and alleys or other public works or buildings of such city, town or village, for such purposes as such city, town or village may deem necessary. And the marshal, constable, street commissioner, or other proper officer of such city, town or village, shall have power and be authorized and required to have or cause all such prisoners as may be directed by the mayor, or other chief officer of such city, town or village, to work out the full number of days for which they may have been sentenced, at breaking rock, or at working upon such public streets, highways or alleys or other public works or buildings of such city, town or village as may have been designated. And if the punishment is by fine, and the fine be not paid, then for [ every ten dollars of such judgment] **a portion of such judgment that is equal to the greater of the actual daily cost of incarcerating the prisoner or the amount the municipality is reimbursed by the state for incarcerating the prisoner,** the prisoner shall work one day. And it shall be deemed a part of the judgment and sentence of the court that such prisoner may be worked as herein provided.

2. When a fine is assessed for violation of an ordinance, it shall be within the discretion of the judge, or other official, assessing the fine to provide for the payment of the fine on an installment basis under such terms and conditions as he may deem appropriate.

**221.503. MULES TO BE NOTIFIED OF ESCAPE OF A DANGEROUS FELON FROM CERTAIN JAILS AND DETENTION FACILITIES, WHEN, INFORMATION TO BE INCLUDED.** — **1. As soon as reasonably possible, but in no case more than five hours after a person who has been convicted of murder in the first degree or a dangerous felony as defined in section 556.061 or who is being held on suspicion of having committed murder in the first degree or a dangerous felony as defined in section 556.061 has escaped from a municipal detention facility, county jail, regional jail, or private jail, the chief law enforcement official**

responsible for such jail or detention facility or the chief administrator in the case of a private jail shall cause notification of the escape to be made to the Missouri uniform law enforcement system (MULES).

2. The notification required by this section may include the name of the escaped individual, any facts relevant to identifying the escaped individual, including but not limited to, a physical description, a photograph or video of such individual, a description of any mode of transportation such individual is believed to be using, and a description of any person believed to be assisting such person in the escape, if any. The notification shall also include the crimes for which the person was incarcerated in the jail or detention facility and contact information for the jail or detention facility which can be used by any person to report any information concerning the whereabouts of the escaped person.

Approved June 17, 2011

## HB 45 [SS SCS HCS HB 45]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Changes the laws regarding the Big Government Get Off My Back Act which provides an income tax deduction for certain small businesses that create new full-time jobs**

AN ACT to repeal section 1.310, RSMo, and to enact in lieu thereof two new sections relating to small businesses.

### SECTION

A. Enacting clause.

1.310. Big government get off my back act — certain federal mandates not subject to appropriations or statutory authorization — no user fees to be increased for five-year period.

143.173. Tax deduction for job creation by small businesses, definitions, amount, procedure, sunset date.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Section 1.310, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 1.310 and 143.173, to read as follows:

**1.310. BIG GOVERNMENT GET OFF MY BACK ACT — CERTAIN FEDERAL MANDATES NOT SUBJECT TO APPROPRIATIONS OR STATUTORY AUTHORIZATION — NO USER FEES TO BE INCREASED FOR FIVE-YEAR PERIOD.** — 1. This section shall be known and may be cited as the "Big Government Get Off My Back Act".

2. **Any federal mandate compelling the state to enact, enforce, or administer a federal regulatory program shall be subject to authorization through appropriation or statutory enactment.**

3. No user fees imposed by the state of Missouri shall increase for the [four-year] **five-year** period beginning on August 28, 2009, unless such fee increase is to implement a federal program administered by the state or is a result of an act of the general assembly. For purposes of this section, "user fee" does not include employer taxes or contributions, assessments to offset the cost of examining insurance or financial institutions, any health-related taxes approved by the Center for Medicare and Medicaid Services, or any professional or occupational licensing fees set by a board of members of that profession or occupation and required by statute to be set at a level not to exceed the cost of administration.



[3.] **4.** For the [four-year] **five-year** period beginning on August 28, 2009, any state agency proposing a rule as that term is defined in subdivision (6) of section 536.010, other than any rule promulgated as a result of a federal mandate, or to implement a federal program administered by the state or an act of the general assembly, shall either:

- (1) Certify that the rule does not have an adverse impact on small businesses consisting of fewer than [twenty-five] **fifty** full- or part-time employees; or
- (2) Certify that the rule is necessary to protect the life, health or safety of the public; or
- (3) Exempt any small business consisting of fewer than [twenty-five] **fifty** full- or part-time employees from coverage.

[4.] **5.** The provisions of this section shall not be construed to prevent or otherwise restrict an agency from promulgating emergency rules pursuant to section 536.025, or from rescinding any existing rule pursuant to section 536.021.

**143.173. TAX DEDUCTION FOR JOB CREATION BY SMALL BUSINESSES, DEFINITIONS, AMOUNT, PROCEDURE, SUNSET DATE. — 1. As used in this section, the following terms mean:**

- (1) "County average wage", the average wages in each county as determined by the department of economic development for the most recently completed full calendar year. However, if the computed county average wage is above the statewide average wage, the statewide average wage shall be deemed the county average wage for such county for the purpose of this section;
- (2) "Deduction", an amount subtracted from the taxpayer's Missouri adjusted gross income to determine Missouri taxable income, or federal taxable income in the case of a corporation, for the tax year in which such deduction is claimed;
- (3) "Full-time employee", a position in which the employee is considered full-time by the taxpayer and is required to work an average of at least thirty-five hours per week for a fifty-two week period;
- (4) "New job", the number of full-time employees employed by the small business in Missouri on the qualifying date that exceeds the number of full-time employees employed by the small business in Missouri on the same date of the immediately preceding taxable year;
- (5) "Qualifying date", any date during the tax year as chosen by the small business;
- (6) "Small business", any small business consisting of fewer than fifty full or part-time employees;
- (7) "Taxpayer", any small business subject to the income tax imposed in this chapter.

**2.** In addition to all deductions listed in this chapter, for all taxable years beginning on or after January 1, 2011, and ending on or before December 31, 2014, a taxpayer shall be allowed a deduction for each new job created by the small business in the taxable year. The deduction amount shall be as follows:

- (1) Ten thousand dollars for each new job created with an annual salary of at least the county average wage; or
- (2) Twenty thousand dollars for each new job created with an annual salary of at least the county average wage if the small business offers health insurance and pays at least fifty percent of such insurance premiums.

**3.** The department of revenue shall establish the procedure by which the deduction provided in this section may be claimed, and may promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the

effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2011, shall be invalid and void.

4. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset on December thirty-first three years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset on December thirty-first three years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

Approved July 8, 2011

HB 68 [HB 68]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Prohibits a political subdivision from imposing a fine or penalty on the owner of a pay telephone on the owner's property for a call made to an emergency telephone service from the pay telephone**

AN ACT to repeal section 190.308, RSMo, and to enact in lieu thereof one new section relating to misuse of emergency telephone service, with an existing penalty provision.

SECTION

A. Enacting clause.

190.308. Misuse of emergency telephone service unlawful, definitions, penalty — no local fine or penalty for pay telephones for calls to emergency telephone service.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Section 190.308, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 190.308, to read as follows:

**190.308. MISUSE OF EMERGENCY TELEPHONE SERVICE UNLAWFUL, DEFINITIONS, PENALTY — NO LOCAL FINE OR PENALTY FOR PAY TELEPHONES FOR CALLS TO EMERGENCY TELEPHONE SERVICE.** — 1. In any county that has established an emergency telephone service pursuant to sections 190.300 to 190.320, it shall be unlawful for any person to misuse the emergency telephone service. For the purposes of this section, "emergency" means any incident involving danger to life or property that calls for an emergency response dispatch of police, fire, EMS or other public safety organization, "misuse the emergency telephone service", includes, but is not limited to, repeatedly calling the "911" for nonemergency situations causing operators or equipment to be in use when emergency situations may need such operators or equipment and "repeatedly" means three or more times within a one-month period.

2. Any violation of this section is a class B misdemeanor.

3. **No political subdivision shall impose any fine or penalty on the owner of a pay telephone or on the owner of any property upon which a pay telephone is located for calls**

to the emergency telephone service made from the pay telephone. Any such fine or penalty is hereby void.

Approved July 1, 2011

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HB 70 [HCS HB 70]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Changes the compensation and mileage allowance for certain members of a county highway commission**

AN ACT to repeal section 230.220, RSMo, and to enact in lieu thereof one new section relating to county highway commissions.

**SECTION**

- A. Enacting clause.  
230.220. Commission membership, districts — members, election of — compensation and mileage, funds used for — vacancies, how filled.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Section 230.220, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 230.220, to read as follows:

**230.220. COMMISSION MEMBERSHIP, DISTRICTS — MEMBERS, ELECTION OF — COMPENSATION AND MILEAGE, FUNDS USED FOR — VACANCIES, HOW FILLED.** — 1. In each county adopting it, the county highway commission established by sections 230.200 to 230.260 shall be composed of the three commissioners of the county commission and one person elected from the unincorporated area of each of the two county commission districts. Except that the presiding commissioner and one of the associate commissioners by process of election may reside in the same township, not more than one member of the county highway commission shall be a resident of the same township of the county. The county commission shall designate one county commission district as district A and the other as district B. The member of the county highway commission first elected from district A shall serve a term of two years. The member first elected from district B shall serve a term of four years. Upon the expiration of the term of each such member, his successors shall be elected for a term of four years. The commissioners of the county commission shall serve as members of the county highway commission during their term as county commissioners.

2. The elected members of the county highway commission shall be nominated at the primary election and elected at the general election next following the adoption of the proposition for the alternative county highway commission by the voters of the county. Candidates shall file and the election shall be conducted in the same manner as for the nomination and election of candidates for county office. Within thirty days after the adoption of an alternative county highway commission by the voters of any county as provided in sections 230.200 to 230.260, the governor shall appoint a county highway commissioner from each district from which a member will be elected at the next following general election. The commissioners so appointed shall hold their office until their successors are elected at the following general election. Appointments shall be made by naming one member from each of the two political parties casting the highest number of votes in the preceding general election.

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3. Members of the county highway commission [shall receive as compensation for their services fifteen dollars per day for the first meeting each month and five dollars for each meeting thereafter during the month. The members shall also receive a mileage allowance of eight cents per mile actually and necessarily traveled in the performance of their duties. The compensation and mileage allowance of the members of the commission shall be paid out of the road and bridge fund of the county] **who are not also members of the county's governing body shall receive an attendance fee in an amount per meeting as set by the county's governing body, not to exceed one hundred dollars, and a mileage allowance for miles actually and necessarily traveled in the performance of their duties in the same amount per mile received by the members of the county's governing body to be paid out of the road and bridge fund of the county.**

4. If a vacancy occurs among the elected members of the county highway commission, the members of the county highway commission shall select a successor who shall serve until the next regular election.

Approved June 30, 2011

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HB 73 [SS SCS HCS HB 73 & 47]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Requires certain applicants for and recipients of Temporary Assistance for Needy Families Program benefits to be tested for illegal drug use and the benefit card to include a photo of the recipient or payee**

AN ACT to amend chapter 208, RSMo, by adding thereto two new sections relating to illegal drug use of applicants and recipients of temporary assistance for needy families benefits.

SECTION

A. Enacting clause.

208.027. TANF recipients, screening for illegal use of controlled substances, test to be used — positive test or refusal to be tested, administrative proceeding — reporting requirements — other household members to continue to receive benefits, when — rulemaking authority.

1. TANF electronic benefit cards to include photograph of recipient.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Chapter 208, RSMo, is amended by adding thereto two new sections, to be known as sections 208.027 and 1, to read as follows:

**208.027. TANF RECIPIENTS, SCREENING FOR ILLEGAL USE OF CONTROLLED SUBSTANCES, TEST TO BE USED — POSITIVE TEST OR REFUSAL TO BE TESTED, ADMINISTRATIVE PROCEEDING — REPORTING REQUIREMENTS — OTHER HOUSEHOLD MEMBERS TO CONTINUE TO RECEIVE BENEFITS, WHEN — RULEMAKING AUTHORITY. — 1. The department of social services shall develop a program to screen each applicant or recipient who is otherwise eligible for temporary assistance for needy families benefits under this chapter, and then test, using a urine dipstick five panel test, each one who the department has reasonable cause to believe, based on the screening, engages in illegal use of controlled substances. Any applicant or recipient who is found to have tested positive for the use of a controlled substance, which was not prescribed for such applicant or recipient by a licensed health care provider, or who refuses to submit to a test, shall, after**

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an administrative hearing conducted by the department under the provisions of chapter 536, be declared ineligible for temporary assistance for needy families benefits for a period of three years from the date of the administrative hearing decision unless such applicant or recipient, after having been referred by the department, enters and successfully completes a substance abuse treatment program and does not test positive for illegal use of a controlled substance in the six-month period beginning on the date of entry into such rehabilitation or treatment program. The applicant or recipient shall continue to receive benefits while participating in the treatment program. The department may test the applicant or recipient for illegal drug use at random or set intervals, at the department's discretion, after such period. If the applicant or recipient tests positive for the use of illegal drugs a second time, then such applicant or recipient shall be declared ineligible for temporary assistance for needy families benefits for a period of three years from the date of the administrative hearing decision. The department shall refer an applicant or recipient who tested positive for the use of a controlled substance under this section to an appropriate substance abuse treatment program approved by the division of alcohol and drug abuse within the department of mental health.

2. Case workers of applicants or recipients shall be required to report or cause a report to be made to the children's division in accordance with the provisions of sections 210.109 to 210.183 for suspected child abuse as a result of drug abuse in instances where the case worker has knowledge that:

(1) An applicant or recipient has tested positive for the illegal use of a controlled substance; or

(2) An applicant or recipient has refused to be tested for the illegal use of a controlled substance.

3. Other members of a household which includes a person who has been declared ineligible for temporary assistance for needy families assistance shall, if otherwise eligible, continue to receive temporary assistance for needy families benefits as protective or vendor payments to a third-party payee for the benefit of the members of the household.

4. The department of social services shall promulgate rules to develop the screening and testing provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2011, shall be invalid and void.

**SECTION 1. TANF ELECTRONIC BENEFIT CARDS TO INCLUDE PHOTOGRAPH OF RECIPIENT.** — All electronic benefits cards distributed to recipients of temporary assistance for needy families benefits shall have imprinted on the card a photograph of the recipient or protective payee authorized to use the card and shall expire and be subject to renewal after a period of three years. The card shall not be accepted for use by a retail establishment if the photograph of the recipient does not match the person presenting the card.

Approved July 12, 2011

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Specifies that an agreement to operate or share an automated teller machine cannot prohibit the owner or operator of the machine from imposing an access fee or surcharge on foreign bank transactions**

AN ACT to repeal sections 362.111 and 370.073, RSMo, and to enact in lieu thereof two new sections relating to international transactions.

SECTION

A. Enacting clause.

362.111. Fees and service charges permitted, when, conditions.

370.073. Fee or service charge authorized, when.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 362.111 and 370.073, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 362.111 and 370.073, to read as follows:

**362.111. FEES AND SERVICE CHARGES PERMITTED, WHEN, CONDITIONS.** — **1.** A bank or trust company may impose fees or service charges on deposit accounts; however, such fees or service charges are subject to such conditions or requirements that may be fixed by regulations pursuant to section 361.105 by the director of the division of finance and the state banking board. Notwithstanding any law to the contrary, no such condition or requirement shall be more restrictive than the fees or service charges on deposit accounts or similar accounts permitted any federally chartered depository institution.

**2. An agreement to operate or share an automated teller machine shall not prohibit an owner or operator of the automated teller machine from imposing, on an individual who conducts a transaction using a foreign account, an access fee or surcharge that is not otherwise prohibited under federal or state law.**

**3. As used in this section, the following terms mean:**

**(1) "Automated teller machine", any electronic device, wherever located, through which a consumer may initiate an electronic funds transfer or may order, instruct, or authorize a financial institution to debit or credit an account and includes any machine or device which may be used to carry out electronic banking business. "Automated teller machine" does not include point of sale terminals or telephones or personal computers operated by a consumer;**

**(2) "Foreign account", an account with a financial institution located outside the United States.**

**370.073. FEE OR SERVICE CHARGE AUTHORIZED, WHEN.** — **1.** A credit union may impose fees or service charges on deposit accounts or similar accounts; however, such fees or service charges are subject to such conditions or requirements that may be fixed by regulations pursuant to this chapter by the director of credit union supervision and the credit union commission. Notwithstanding any law to the contrary, no such condition or requirement shall be more restrictive than the fees or service charges on deposit accounts or similar accounts permitted any federally chartered depository institution.

**2. An agreement to operate or share an automated teller machine shall not prohibit an owner or operator of the automated teller machine from imposing, on an individual who**

conducts a transaction using a foreign account, an access fee or surcharge that is not otherwise prohibited under federal or state law.

3. As used in this section, the following terms mean:

(1) "Automated teller machine", any electronic device, wherever located, through which a consumer may initiate an electronic funds transfer or may order, instruct, or authorize a financial institution to debit or credit an account and includes any machine or device which may be used to carry out electronic banking business. "Automated teller machine" does not include point of sale terminals or telephones or personal computers operated by a consumer;

(2) "Foreign account", an account with a financial institution located outside the United States.

Approved June 16, 2011

## HB 89 [SS#2 SCS HCS HB 89]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

### Changes the laws regarding natural resources

AN ACT to repeal sections 247.060, 253.090, 386.850, 444.773, 621.250, 643.020, 643.040, 643.050, 643.060, 643.079, 643.080, 643.130, 643.191, 643.225, 643.232, 643.237, 643.240, 643.242, 643.245, 643.250, 643.253, 643.260, 644.036, 644.051, 644.054, 644.071, 701.033, and 701.332, RSMo, and to enact in lieu thereof forty new sections relating to natural resources, with penalty provisions and an emergency clause for certain sections.

#### SECTION

- A. Enacting clause.
- 37.970. Transparency policy — public availability of data — broad interpretation of sunshine law requests — breach of the public trust, when.
- 67.4500. Definitions.
- 67.4505. Authority created, powers, purpose — income and property exempt from taxation — immunity from liability.
- 67.4510. Members, appointment.
- 67.4515. Initial meeting, when — officers, executive director — surety bond requirements — conflict of interest.
- 67.4520. Powers of authority — transfer of property to authority, when — zoning and planning powers.
- 192.1250. Water quality testing system, feasibility of — report.
- 247.060. Board of directors — powers, qualifications, appointment, terms, vacancies, how filled — elections held, when, procedure — attendance fee — suspension of members, when.
- 253.090. State park earnings fund created, how used.
- 442.014. Private landowner protection act — definitions — conservation easement permitted, when, validity — applicability.
- 444.771. Limitation on permits near an accredited school.
- 444.773. Director to investigate applications — recommendation — public meeting or hearing — denial of permit, when.
- 620.2300. Definitions — applications process.
- 621.250. Appeals from decisions of certain environmental commissions to be heard by administrative hearing commission — procedure.
- 640.018. Permit issuance after expiration of statutorily required time frame — engineering plans, specifications and designs — permit application or modification, statement required, use by department.
- 640.128. Voluntary reporting by permit holders, department to notify local and state health departments of potential risks.
- 640.850. Committee to be convened, purpose, report.
- 643.020. Definitions.
- 643.040. Air conservation commission created — members, terms, expenses, meetings.
- 643.050. Powers and duties of commission — rules, procedure.
- 643.060. Powers and duties of director.

- 643.079. Fees, amount — deposit of moneys, where, subaccount to be maintained — civil action for failure to remit fees, effect upon permit — agencies, determination of fees.
- 643.080. Investigations, when made — violation, how eliminated — hearing, procedure — final order, notice of.
- 643.130. Judicial review.
- 643.191. Violation of certain requirements unlawful, penalty — false statements unlawful, penalty.
- 643.225. Rules for asbestos abatement projects, standards and examinations — certification requirements — application — examination, content — certificate expires, when — fees — renewal of certificate requirements — refresher course — failure to pass examination, may repeat exam, when — fee for renewal.
- 643.232. Asbestos abatement contractor required to register annually, qualifications — project requirements — registration fee.
- 643.237. Projects requiring special application, form, contents — procedure — fee, exemptions from fee — emergency projects, procedure — revision of project plans, notification of department required.
- 643.240. Friable material subject to regulation — air sample analysis, how conducted.
- 643.242. Inspection of projects, when — inspection fee — postponement of project, notice to department, failure to notify, effect — exemption from fee for local air pollution control agency, when.
- 643.245. Natural resources protection fund — air pollution asbestos fee subaccount created — purpose — lapse into general revenue prohibited — fund deposited where, by state treasurer, interest credited to fund.
- 643.250. Entry by department on public or private property for regulation purposes — refusal to allow grounds for revocation or injunctions, violations of regulations, penalties.
- 644.036. Public hearings — rules and regulations, how promulgated — listings under Clean Water Act, requirements, procedures.
- 644.051. Prohibited acts — permits required, when, fee — bond required of permit holders, when — permit application procedures — rulemaking — limitation on use of permit fee moneys — permit shield provisions.
- 644.054. Fees, billing and collection — administration, generally — fees to become effective, when — fees to expire, when — variances granted, when — fee structure review.
- 644.071. Judicial review authorized.
- 644.145. Affordability finding required, when — definitions — procedures to be adopted — appeal of determination.
- 701.033. Department of health and senior services — powers and duties — rules, procedure.
- 701.058. Stakeholder meetings, permits and inspections of systems — report.
  - 1. Nonseverability of act.
- 386.850. Task force, required meetings.
- 643.253. Definitions.
- 643.260. Definitions.
- 701.332. Project not to include single-family dwelling — other excluded structures, conditions.
  - B. Emergency clause.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 247.060, 253.090, 386.850, 444.773, 621.250, 643.020, 643.040, 643.050, 643.060, 643.079, 643.080, 643.130, 643.191, 643.225, 643.232, 643.237, 643.240, 643.242, 643.245, 643.250, 643.253, 643.260, 644.036, 644.051, 644.054, 644.071, 701.033, and 701.332, RSMo, are repealed and forty new sections enacted in lieu thereof, to be known as sections 37.970, 67.4500, 67.4505, 67.4510, 67.4515, 67.4520, 192.1250, 247.060, 253.090, 442.014, 444.771, 444.773, 620.2300, 621.250, 640.018, 640.128, 640.850, 643.020, 643.040, 643.050, 643.060, 643.079, 643.080, 643.130, 643.191, 643.225, 643.232, 643.237, 643.240, 643.242, 643.245, 643.250, 644.036, 644.051, 644.054, 644.071, 644.145, 701.033, 701.058, and 1, to read as follows:

**37.970. TRANSPARENCY POLICY—PUBLIC AVAILABILITY OF DATA—BROAD INTERPRETATION OF SUNSHINE LAW REQUESTS—BREACH OF THE PUBLIC TRUST, WHEN.** —

**1.** It shall be the policy of each state department to carry out its mission with full transparency to the public. Any data collected in the course of its duties shall be made available to the public in a timely fashion. Data, reports, and other information resulting from any activities conducted by the department in the course of its duties shall be easily accessible by any member of the public.

**2.** Each department shall broadly interpret any request for information under section 610.023:

(1) Even if such request for information does not use the words "sunshine request", "open records request", "public records request", or any such similar wording;



(2) Even if the communication is simply an inquiry as to the availability or existence of data or information; and

(3) Regardless of the format in which the communication is made, including electronic mail, facsimile, internet, postal mail, in person, telephone, or any other format.

3. Any failure by a department to release information shall, in addition to any other applicable violation of law, be considered a violation of the department's policy under this section and shall constitute a breach of the public's trust.

4. This section shall not be construed to limit or exceed the requirements of the provisions in chapter 610, nor shall this section require different treatment of a record considered closed or confidential under section 610.021 than what is required under that section.

**67.4500. DEFINITIONS.** — As used in sections 67.4500 to 67.4520, the following terms shall mean:

(1) "Authority", any county drinking water supply lake authority created by sections 67.4500 to 67.4520;

(2) "Conservation storage level", the target elevation established for a drinking water supply lake at the time of design and construction of such lake;

(3) "Costs", the sum total of all reasonable or necessary expenses incidental to the acquisition, construction, expansion, repair, alteration, and improvement of the project, including without limitation the following: the expense of studies and surveys; the cost of all lands, properties, rights, easements, and franchises acquired; land title and mortgage guaranty policies; architectural and engineering services; legal, organizational marketing, or other special services; provisions for working capital; reserves for principal and interest; and all other necessary and incidental expenses, including interest during construction on bonds issued to finance the project and for a period subsequent to the estimated date of completion of the project;

(4) "Project", recreation and tourist facilities and services, including, but not limited to, lakes, parks, recreation centers, restaurants, hunting and fishing reserves, historic sites and attractions, and any other facilities that the authority may desire to undertake, including the related infrastructure buildings and the usual and convenient facilities appertaining to any undertakings, and any extensions or improvements of any facilities, and the acquisition of any property necessary therefore, all as may be related to the development of a water supply source, recreational and tourist accommodations, and facilities;

(5) "Water commission", a water commission owning a reservoir formed pursuant to sections 393.700 to 393.770;

(6) "Watershed", the area that contributes or may contribute to the surface water of any lake as determined by the authority.

**67.4505. AUTHORITY CREATED, POWERS, PURPOSE — INCOME AND PROPERTY EXEMPT FROM TAXATION — IMMUNITY FROM LIABILITY.** — 1. There is hereby created within any county of the third classification with a township form of government and with more than seven thousand two hundred but fewer than seven thousand three hundred inhabitants a county drinking water supply lake authority, which shall be a body corporate and politic and a political subdivision of this state.

2. The authority may exercise the powers provided to it under section 67.4520 over the reservoir area encompassing any drinking water supply lake of one thousand five hundred acres or more, as measured at its conservation storage level, and within the lake's watershed.

3. It shall be the purpose of each authority to promote the general welfare and a safe drinking water supply through the construction, operation, and maintenance of a drinking water supply lake.

4. The income of the authority and all property at any time owned by the authority shall be exempt from all taxation or any assessments whatsoever to the state or of any political subdivision, municipality, or other governmental agency thereof.

5. No county in which an authority is organized shall be held liable in connection with the construction, operation, or maintenance of any project or program undertaken pursuant to sections 67.4500 to 67.4520, including any actions taken by the authority in connection with such project or program.

**67.4510. MEMBERS, APPOINTMENT.** — A county drinking water supply lake authority shall consist of at least six but not more than thirty members, appointed as follows:

(1) Members of the water commission shall appoint all members to the authority, one-third of the initial members for a six-year term, one-third for a four-year term, and the remaining one-third for a two-year term, until a successor is appointed; provided that, if there is an odd number of members, the last person appointed shall serve a two-year term. Upon the expiration of each term, a successor shall be appointed for a six-year term;

(2) No person shall be appointed to serve on the authority unless he or she is a registered voter in the state for more than five years, a resident in the county where the water commission is located for more than five years, and over the age of twenty-five years. If any member moves outside such county, the seat shall be deemed vacant and a new member shall be appointed by the county commission to complete the unexpired term.

**67.4515. INITIAL MEETING, WHEN — OFFICERS, EXECUTIVE DIRECTOR — SURETY BOND REQUIREMENTS — CONFLICT OF INTEREST.** — 1. The water commission shall by resolution establish a date and time for the initial meeting of the authority.

2. At the initial meeting, and annually thereafter, the authority shall elect one of its members as chairman and one as vice chairman, and appoint a secretary and a treasurer who may be a member of the authority. If not a member of the authority, the secretary or treasurer shall receive compensation that shall be fixed from time to time by action of the authority. The authority may appoint an executive director who shall not be a member of the authority and who shall serve at its pleasure. If an executive director is appointed, he or she shall receive such compensation as shall be fixed from time to time by action of the authority. The authority may designate the secretary to act in lieu of the executive director. The secretary shall keep a record of the proceedings of the authority and shall be the custodian of all books, documents, and papers filed with the authority, the minute books or journal thereof, and its official seal. The secretary may cause copies to be made of all minutes and other records and documents of the authority and may give certificates under the official seal of the authority to the effect that the copies are true and correct copies, and all persons dealing with the authority may rely on such certificates. The authority, by resolution duly adopted, shall fix the powers and duties of its executive director as it may from time to time deem proper and necessary.

3. Each member of the authority shall execute a surety bond in the penal sum of fifty thousand dollars or, in lieu thereof, the chairman of the authority shall execute a blanket bond covering each member and the employees or other officers of the authority, each surety bond to be conditioned upon the faithful performance of the duties of the office or offices covered, to be executed by a surety company authorized to transact business in the state as surety, and to be approved by the attorney general and filed in the office of the secretary of state. The cost of each such bond shall be paid by the authority.

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4. No authority member shall participate in any deliberations or decisions concerning issues where the authority member has a direct financial interest in contracts, property, supplies, services, facilities, or equipment purchased, sold, or leased by the authority. Authority members shall additionally be subject to the limitations regarding the conduct of public officials as provided in chapter 105.

**67.4520. POWERS OF AUTHORITY — TRANSFER OF PROPERTY TO AUTHORITY, WHEN — ZONING AND PLANNING POWERS.**— 1. The authority may:

(1) Acquire, own, construct, lease, and maintain recreational or water quality projects;

(2) Acquire, own, lease, sell, or otherwise dispose of interests in and to real property and improvements situated thereon and in personal property necessary to fulfill the purposes of the authority;

(3) Contract and be contracted with, and to sue and be sued;

(4) Accept gifts, grants, loans, or contributions from the federal government, the state of Missouri, political subdivisions, municipalities, foundations, other public or private agencies, individuals, partnerships, or corporations;

(5) Employ such managerial, engineering, legal, technical, clerical, accounting, advertising, stenographic, and other assistance as it may deem advisable. The authority may also contract with independent contractors for any of the foregoing assistance;

(6) Disburse funds for its lawful activities and fix salaries and wages of its employees;

(7) Fix rates, fees, and charges for the use of any projects and property owned, leased, operated, or managed by the authority;

(8) Adopt, alter, or repeal its own bylaws, rules, and regulations governing the manner in which its business may be transacted; however, said bylaws, rules, and regulations shall not exceed the powers granted to the authority by sections 67.4500 to 67.4520;

(9) Either jointly with a similar body, or separately, recommend to the proper departments of the government of the United States, or any state or subdivision thereof, or to any other body, the carrying out of any public improvement;

(10) Provide for membership in any official, industrial, commercial, or trade association, or any other organization concerned with such purposes, for receptions of officials or others as may contribute to the advancement of the authority and development therein, and for such other public relations activities as will promote the same, and such activities shall be considered a public purpose;

(11) Cooperate with municipalities and other political subdivisions as provided in chapter 70;

(12) Enter into any agreement with any other state, agency, authority, commission, municipality, person, corporation, or the United States, to effect any of the provisions contained in sections 67.4500 to 67.4520;

(13) Sell and supply water and construct, own, and operate infrastructure projects in areas within its jurisdiction, including but not limited to roads, bridges, water and sewer systems, and other infrastructure improvements;

(14) Issue revenue bonds in the same manner as provided under section 67.789; and

(15) Adopt tax increment financing within its boundaries in the same manner as provided under section 67.790.

2. The state or any political subdivision or municipal corporation thereof may in its discretion, with or without consideration, transfer or cause to be transferred to the authority or may place in its possession or control, by deed, lease, or other contract or agreement, either for a limited period or in fee, any property wherever situated.

3. The state or any political subdivision may appropriate, allocate, and expend such funds of the state or political subdivision for the benefit of the authority as are reasonable and necessary to carry out the provisions of sections 67.4500 to 67.4520.

4. The authority shall have the authority to exercise all zoning and planning powers that are granted to cities, towns, and villages under chapter 89, except that the authority shall not exercise such powers inside the corporate limits of any city, town, or village which has adopted a city plan under the laws of this state before August 28, 2011.

**192.1250. WATER QUALITY TESTING SYSTEM, FEASIBILITY OF — REPORT. —** The department of health and senior services shall examine the feasibility of implementing a real-time water quality testing system for measuring the bacterial water quality at state-owned public beaches and shall issue a report of its findings to the general assembly by December 31, 2011.

**247.060. BOARD OF DIRECTORS — POWERS, QUALIFICATIONS, APPOINTMENT, TERMS, VACANCIES, HOW FILLED — ELECTIONS HELD, WHEN, PROCEDURE — ATTENDANCE FEE — SUSPENSION OF MEMBERS, WHEN. —** 1. The management of the business and affairs of the district is hereby vested in a board of directors, who shall have all the powers conferred upon the district except as herein otherwise provided[, who shall serve without pay]. It shall be composed of five members, each of whom shall be a voter of the district and shall have resided in said district one whole year immediately prior to his election, **or if not a voter or resident of said district, shall have received service from the district at his or her primary place of residence one whole year immediately prior to his or her election.** A member shall be at least twenty-five years of age and shall not be delinquent in the payment of taxes at the time of his election. Except as provided in subsection 2 of this section, the term of office of a member of the board shall be three years. The remaining members of the board shall appoint a qualified person to fill any vacancy on the board. If no qualified person who lives in the subdistrict for which there is a vacancy is willing to serve on the board, the board may appoint an otherwise qualified person who lives in the district but not in the subdistrict in which the vacancy exists to fill such vacancy.

2. After notification by certified mail that he or she has two consecutive unexcused absences, any member of the board failing to attend the meetings of the board for three consecutive regular meetings, unless excused by the board for reasons satisfactory to the board, shall be deemed to have vacated the seat, and the secretary of the board shall certify that fact to the board. The vacancy shall be filled as other vacancies occurring in the board.

3. The initial members of the board shall be appointed by the circuit court and one shall serve until the immediately following first Tuesday after the first Monday in April, two shall serve until the first Tuesday after the first Monday in April on the second year following their appointment and the remaining appointees shall serve until the first Tuesday after the first Monday in April on the third year following their appointment. On the expiration of such terms and on the expiration of any subsequent term, elections shall be held as otherwise provided by law, and such elections shall be held in April pursuant to section 247.180.

4. In 2008, 2009, and 2010, directors elected in such years shall serve from the first Tuesday after the first Monday in June until the first Tuesday in April of the third year following the year of their election. All directors elected thereafter shall serve from the first Tuesday in April until the first Tuesday in April of the third year following the year of their election.

5. **Each member of the board may receive an attendance fee not to exceed one hundred dollars for attending each regularly called board meeting, or special meeting, but shall not be paid for attending more than two meetings in any calendar month, except that in a county of the first classification, a member shall not be paid for attending more than four meetings in any calendar month. However, no board member shall be paid more than one attendance fee if such member attends more than one board meeting in a**

calendar week. In addition, the president of the board of directors may receive fifty dollars for attending each regularly or specially called board meeting, but shall not be paid the additional fee for attending more than two meetings in any calendar month. Each member of the board shall be reimbursed for his or her actual expenditures in the performance of his or her duties on behalf of the district.

6. In no event, however, shall a board member receive any attendance fees or additional compensation authorized in subsection 5 of this section until after such board member has completed a minimum of six hours training regarding the responsibilities of the board and its members concerning the basics of water treatment and distribution, budgeting and rates, water utility planning, the funding of capital improvements, the understanding of water utility financial statements, the Missouri sunshine law, and this chapter.

7. The circuit court of the county having jurisdiction over the district shall have jurisdiction over the members of the board of directors to suspend any member from exercising his or her office, whensoever it appears that he or she has abused his or her trust or become disqualified; to remove any member upon proof or conviction of gross misconduct or disqualification for his or her office; or to restrain and prevent any alienation of property of the district by members, in cases where it is threatened, or there is good reason to apprehend that it is intended to be made in fraud of the rights and interests of the district.

8. The jurisdiction conferred by this section shall be exercised as in ordinary cases upon petition, filed by or at the instance of any member of the board, or at the instance of any ten voters residing in the district who join in the petition, verified by the affidavit of at least one of them. The petition shall be heard in a summary manner after ten days' notice in writing to the member or officer complained of. An appeal shall lie from the judgment of the circuit court as in other causes, and shall be speedily determined; but an appeal does not operate under any condition as a supersedeas of a judgment of suspension or removal from office.

**253.090. STATE PARK EARNINGS FUND CREATED, HOW USED.** — 1. All revenue derived from privileges, conveniences, contracts or otherwise, all moneys received by gifts, bequests or contributions or from county or municipal sources and all moneys received from the operation of concessions, projects or facilities and from resale items shall be paid into the state treasury to the credit of the "State Park Earnings Fund", which is hereby created. In the event any state park or any part thereof is taken under the power of eminent domain by the federal government the moneys paid for the taking shall be deposited in the state park earnings fund. The fund shall be used solely for the payment of the expenditures of the department of natural resources in the administration of this law, except that in any fiscal year the department may expend a sum not to exceed fifty percent of the preceding fiscal year's deposits to the state park earnings fund for the purpose of:

- (1) Paying the principal and interest of revenue bonds issued;
- (2) Providing an interest and sinking fund;
- (3) Providing a reasonable reserve fund;
- (4) Providing a reasonable fund for depreciation; and
- (5) Paying for feasibility reports necessary for the issuing of revenue bonds.

2. **Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.**

3. A good and sufficient bond conditioned upon the faithful performance of the contract and compliance with this law shall be required of all contractors.

[3.] 4. Any person who contracts pursuant to this section with the state shall keep true and accurate records of his or her receipts and disbursements arising out of the performance of the contract and shall permit the department of natural resources and the state auditor to audit such records.

[4. All moneys remaining in the state park revolving fund on July 1, 2000, shall be transferred to the state park earnings fund.]

**442.014. PRIVATE LANDOWNER PROTECTION ACT — DEFINITIONS — CONSERVATION EASEMENT PERMITTED, WHEN, VALIDITY — APPLICABILITY. — 1. This act shall be known and may be cited as the "Private Landowner Protection Act".**

**2. As used in this section, unless the context otherwise requires, the following terms mean:**

(1) "Conservation easement", a nonpossessory interest of a holder in real property imposing limitations or affirmative obligations the purposes of which include retaining or protecting natural, scenic, or open-space values of real property, assuring its availability for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property;

(2) "Holder", any of the following:

(a) A governmental body empowered to hold an interest in real property under the laws of this state or the United States;

(b) A charitable corporation, charitable association, or charitable trust, the purposes, powers, or intent of which include retaining or protecting the natural, scenic, or open-space values of real property, assuring the availability of real property for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property; or

(c) An individual or other private entity;

(3) "Third-party right of enforcement", a right expressly provided in a conservation easement to enforce any of its items granted to a designated governmental body, charitable corporation, charitable association, charitable trust, individual, or any other private entity which, although eligible to be a holder, is not a holder.

3. (1) Except as otherwise provided in this section, a conservation easement may be created, conveyed, recorded, assigned, released, modified, terminated, or otherwise altered or affected in the same manner as other easements. No right or duty in favor of or against a holder and no right in favor of a person having a third-party right of enforcement arises under a conservation easement before its acceptance by the holder and a recordation of the acceptance. Except as provided in subdivision (2) of this subsection, a conservation easement is unlimited in duration unless the instrument creating it provides otherwise.

(2) An interest in real property in existence at the time a conservation easement is created is not impaired by it unless the owner of the interest is a party to the conservation easement or consents to it.

4. (1) An action affecting a conservation easement may be brought by an owner of an interest in real property burdened by the easement; a holder of the easement, a person having a third-party right of enforcement; or a person authorized by other law.

(2) This section does not affect the power of a court to modify or terminate a conservation easement in accordance with the principles of law and equity.

5. A conservation easement is valid even though:

(1) It is not appurtenant to an interest in real property;

(2) It can be or has been assigned to another holder;

(3) It is not of a character that has been recognized traditionally at common law;

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(4) It imposes a negative burden that would prevent a landowner from performing acts on the land he or she would otherwise be privileged to perform absent the agreed-upon easement;

(5) It imposes affirmative obligations upon the owner of an interest in the burdened property or upon the holder;

(6) The benefit does not touch or concern real property; or

(7) There is no privity of estate or of contract.

6. Nothing in this section shall affect the ability of any public utility, municipal utility, joint municipal utility commission, rural electric cooperative, telephone cooperative, or public water supply district to acquire an easement, either through negotiation with an owner of an interest in real property or by condemnation, to lay or construct plants or facilities for the transmission or distribution of electricity, natural gas, telecommunications service, water, or the carriage of sewage along or across a conservation easement.

7. This section applies to any interest created after its effective date which complies with this section, whether designated as a conservation easement or as a covenant, equitable servitude, restriction, easement, or otherwise. This section applies to any interest created before its effective date if it would have been enforceable had it been created after its effective date unless retroactive application contravenes the constitution or laws of this state or the United States. This section does not alter the terms of any interest created before its effective date, or impose any additional burden or obligation on any grantor or grantee of such interest, or on their successors or assigns. This section does not invalidate any interest, whether designated as a conservation or preservation easement or as a covenant, equitable servitude, restriction, easement, or otherwise, that is enforceable under other laws of this state.

**444.771. LIMITATION ON PERMITS NEAR AN ACCREDITED SCHOOL.** — Notwithstanding any other provision of law to the contrary, the commission and the department shall not issue any permits under this chapter or under chapters 643 or 644 to any person whose mine plan boundary is within one thousand feet of any real property where an accredited school has been located for at least five years prior to such application for permits made under these provisions, except that the provisions of this section shall not apply to any request for an expansion to an existing mine or to any underground mining operation.

**444.773. DIRECTOR TO INVESTIGATE APPLICATIONS — RECOMMENDATION — PUBLIC MEETING OR HEARING — DENIAL OF PERMIT, WHEN.** — 1. All applications for a permit shall be filed with the director, who shall promptly investigate the application and make a recommendation to the commission within four weeks after the public notice period provided in section 444.772 expires as to whether the permit should be issued or denied. If the director determines that the application has not fully complied with the provisions of section 444.772 or any rule or regulation promulgated pursuant to that section, the director shall recommend denial of the permit. The director shall consider any written comments when making his or her recommendation to the commission on the issuance or denial of the permit.

2. If the recommendation of the director is to deny the permit, a hearing as provided in sections 444.760 to 444.790, if requested by the applicant within fifteen days of the date of notice of recommendation of the director, shall be held by the commission.

3. If the recommendation of the director is for issuance of the permit, the director shall issue the permit without a public meeting or a hearing except that upon petition, received prior to the date of the notice of recommendation, from any person whose health, safety or livelihood will be unduly impaired by the issuance of this permit, a public meeting or a hearing may be held. If a public meeting is requested pursuant to this chapter and the applicant agrees, the director shall, within thirty days after the time for such request has passed, order that a public meeting be held.

The meeting shall be held in a reasonably convenient location for all interested parties. The applicant shall cooperate with the director in making all necessary arrangements for the public meeting. Within thirty days after the close of the public meeting, the director shall recommend to the commission approval or denial of the permit. If the public meeting does not resolve the concerns expressed by the public, any person whose health, safety or livelihood will be unduly impaired by the issuance of such permit may make a written request to the land reclamation commission for a formal public hearing. The land reclamation commission may grant a public hearing to formally resolve concerns of the public. Any public hearing before the commission shall address one or more of the factors set forth in this section.

4. In any **public** hearing [held pursuant to this section the burden of proof shall be on the applicant for a permit.] , if the commission finds, based on competent and substantial scientific evidence on the record, that an interested party's health, safety or livelihood will be unduly impaired by the issuance of the permit, the commission may deny such permit. If the commission finds, based on competent and substantial scientific evidence on the record, that the operator has demonstrated, during the five-year period immediately preceding the date of the permit application, a pattern of noncompliance at other locations in Missouri that suggests a reasonable likelihood of future acts of noncompliance, the commission may deny such permit. In determining whether a reasonable likelihood of noncompliance will exist in the future, the commission may look to past acts of noncompliance in Missouri, but only to the extent they suggest a reasonable likelihood of future acts of noncompliance. Such past acts of noncompliance in Missouri, in and of themselves, are an insufficient basis to suggest a reasonable likelihood of future acts of noncompliance. In addition, such past acts shall not be used as a basis to suggest a reasonable likelihood of future acts of noncompliance unless the noncompliance has caused or has the potential to cause, a risk to human health or to the environment, or has caused or has potential to cause pollution, or was knowingly committed, or is defined by the United States Environmental Protection Agency as other than minor. If a hearing petitioner or the commission demonstrates either present acts of noncompliance or a reasonable likelihood that the permit seeker or the operations of associated persons or corporations in Missouri will be in noncompliance in the future, such a showing will satisfy the noncompliance requirement in this subsection. In addition, such basis must be developed by multiple noncompliances of any environmental law administered by the Missouri department of natural resources at any single facility in Missouri that resulted in harm to the environment or impaired the health, safety or livelihood of persons outside the facility. For any permit seeker that has not been in business in Missouri for the past five years, the commission may review the record of noncompliance in any state where the applicant has conducted business during the past five years. Any decision of the commission made pursuant to a hearing held pursuant to this section is subject to judicial review as provided in chapter 536. No judicial review shall be available, however, until and unless all administrative remedies are exhausted.

**620.2300. DEFINITIONS — APPLICATIONS PROCESS. — 1. As used in this section, the following terms shall mean:**

- (1) "Department", the Missouri department of economic development;
  - (2) "Biomass facility", a biomass renewable energy facility or biomass fuel production facility that will not be a major source for air quality permitting purposes;
  - (3) "Commission", the Missouri public service commission;
  - (4) "County average wage", the average wages in each county as determined by the department for the most recently completed full calendar year. However, if the computed county average wage is above the statewide average wage, the statewide average wage shall be deemed the county average wage for such county for the purpose of determining eligibility. The department shall publish the county average wage for each county at least annually. Notwithstanding the provisions of this subdivision to the contrary, for any project that is relocating employees from a Missouri county with a higher county average
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wage, the company shall obtain the endorsement of the governing body of the community from which jobs are being relocated or the county average wage for their project shall be the county average wage for the county from which the employees are being relocated;

(5) "Full-time employee", an employee of the project facility that is scheduled to work an average of at least thirty-five hours per week for a twelve-month period, and one for which the employer offers health insurance and pays at least fifty percent of such insurance premiums;

(6) "Major source", the same meaning as is provided under 40 C.F.R. 70.2;

(7) "New job", the number of full-time employees located at the project facility that exceeds the project facility base employment less any decrease in the number of full-time employees at related facilities below the related facility base employment. An employee that spends less than fifty percent of the employee's work time at the project facility is still considered to be located at a facility if the employee receives his or her directions and control from that facility, is on the facility's payroll, one hundred percent of the employee's income from such employment is Missouri income, and the employee is paid at or above the state average wage;

(8) "Park", an area consisting of a parcel or tract of land, or any combination of parcels or contiguous land that meet all of the following requirements:

(a) The area consists of at least fifty contiguous acres;

(b) The property within the area is subject to remediation under a clean up program supervised by the Missouri department of natural resources or United States environmental protection agency;

(c) The area contains a manufacturing facility that is closed, undergoing closure, idle, underutilized, or curtailed and that at one time employed at least two hundred employees;

(d) The development plan for the area includes a biomass facility; and

(e) Property located within the area will be used for the development of renewable energy and the demonstration of industrial on-site energy generation;

(9) "Project", a cleanfields renewable energy demonstration project located within a park that will result in the creation of at least fifty new jobs and the retention of at least fifty existing jobs;

(10) "Project application", an application submitted to the department, by an owner of all or a portion of a park, on a form provided by the department, requesting benefits provided under this section;

(11) "Project facility", a biomass facility at which the new jobs will be located. A project facility may include separate buildings that are located within fifty miles of each other or within the same county such that their purpose and operations are interrelated;

(12) "Project facility base employment", the greater of the number of full-time employees located at the project facility on the date of the project application or for the twelve-month period prior to the date of the project application, the average number of full-time employees located at the project facility. In the event the project facility has not been in operation for a full twelve-month period, the average number of full-time employees for the number of months the project facility has been in operation prior to the date of the project application.

2. The owner of a park seeking to establish a project shall submit a project application to the department for certification of such project. The department shall review all project applications received under this section and, in consultation with the department of natural resources, verify satisfaction of the requirements of this section. If the department approves a project application, the department shall forward such application and approval to the commission.

3. Notwithstanding provisions of section 393.1030 to the contrary, upon receipt of an application and approval from the department, the commission shall assign double credit

to any electric power, renewable energy, renewable energy credits, or any successor credit generated from:

- (1) Renewable energy resources purchased from the biomass facility located in the park by an electric power supplier;
- (2) Electric power generated off-site by utilizing biomass fuel sold by the biomass facility located at the park; or
- (3) Electric power generated off-site by renewable energy resources utilizing storage equipment manufactured at the park that increases the quantity of electricity delivered to the electric power supplier.

**621.250. APPEALS FROM DECISIONS OF CERTAIN ENVIRONMENTAL COMMISSIONS TO BE HEARD BY ADMINISTRATIVE HEARING COMMISSION — PROCEDURE.** — 1. All authority to hear appeals granted in chapters 260, 444, 640, 643, and 644, and to the hazardous waste management commission in chapter 260, the land reclamation commission in chapter 444, the safe drinking water commission in chapter 640, the air conservation commission in chapter 643, and the clean water commission in chapter 644 shall be transferred to the administrative hearing commission under this chapter. The authority to render final decisions after hearing on appeals heard by the administrative hearing commission shall remain with the commissions listed in this subsection. The [commissions listed in this subsection] **administrative hearing commission** may render **a recommended** final [decisions] **decision** after hearing or through stipulation, consent order, agreed settlement or by disposition in the nature of default judgment, judgment on the pleadings, or summary determination, consistent with **the requirements of this subsection and** the rules and procedures of the administrative hearing commission.

2. Except as otherwise provided by law, any person or entity who is a party to, or who is **aggrieved or adversely** affected by, any finding, order, decision, or assessment for which the authority to hear appeals was transferred to the administrative hearing commission in subsection 1 of this section may file a notice of appeal with the administrative hearing commission within thirty days after any such finding, order, decision, or assessment is placed in the United States mail or within thirty days of any such finding, order, decision, or assessment being delivered, whichever is earlier. **Within sixty days after the date on which the notice of appeal is filed** the administrative hearing commission [may] **shall** hold hearings **and make a recommended decision based on those hearings** or [may] **shall** make **a recommended** [decisions] **decision** based on stipulation of the parties, consent order, agreed settlement or by disposition in the nature of default judgment, judgment on the pleadings, or summary determination, in accordance with **the requirements of this subsection and** the rules and procedures of the administrative hearing commission.

3. Any decision by the director of the department of natural resources that may be appealed [to the commissions listed] **as provided** in subsection 1 of this section [and] shall contain a notice of the right of appeal in substantially the following language: "If you were adversely affected by this decision, you may appeal to have the matter heard by the administrative hearing commission. To appeal, you must file a petition with the administrative hearing commission within thirty days after the date this decision was mailed or the date it was delivered, whichever date was earlier. If any such petition is sent by registered mail or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the administrative hearing commission." Within fifteen days after the administrative hearing commission renders its recommended decision, it shall transmit the record and a transcript of the proceedings, together with the administrative hearing commission's recommended decision to the commission having authority to issue a final decision. The **final** decision of the commission **shall be issued within ninety days of the date the notice of appeal is filed and** shall be based only on the facts and evidence in the hearing record. The commission

may adopt the recommended decision as its final decision. The commission may change a finding of fact or conclusion of law made by the administrative hearing commission, or may vacate or modify the recommended decision issued by the administrative hearing commission, only if the commission states in writing the specific reason for a change made under this subsection.

4. In the event the person filing the appeal prevails in any dispute under this section, interest shall be allowed upon any amount found to have been wrongfully collected or erroneously paid at the rate established by the director of the department of revenue under section 32.065.

5. Appropriations shall be made from the respective funds of the various commissions to cover the administrative hearing commission's costs associated with these appeals.

6. In all matters heard by the administrative hearing commission under this section, the burden of proof shall comply with section 640.012. The hearings shall be conducted by the administrative hearing commission in accordance with the provisions of chapter 536 and its regulations promulgated thereunder.

7. No cause of action or appeal arising out of any finding, order, decision, or assessment of any of the commissions listed in subsection 1 of this section shall accrue in any court unless the party seeking to file such cause of action or appeal shall have filed a notice of appeal and received a final decision in accordance with the provisions of this section.

**640.018. PERMIT ISSUANCE AFTER EXPIRATION OF STATUTORILY REQUIRED TIME FRAME — ENGINEERING PLANS, SPECIFICATIONS AND DESIGNS — PERMIT APPLICATION OR MODIFICATION, STATEMENT REQUIRED, USE BY DEPARTMENT. — 1.** In any case where the department has not issued a permit or rendered a permit decision by the expiration of a statutorily-required time frame for any application for a permit under this chapter or chapters 260, 278, 319, 444, 643, or 644, the permit shall be issued as of the first day following the expiration of the required time frame, provided all necessary information has been submitted for the application and the department has been in possession of all such information for the duration of the required time frame. This subsection shall be considered in addition to, and not in lieu thereof, any other provision of law regarding consequences of failure by the department to issue a permit or permit decision by the expiration of a required time frame.

2. If engineering plans, specifications, and designs prepared by a registered professional engineer are submitted to the department of natural resources as a part of a permit application or permit modification, the permit application or permit modification shall include a statement that the plans, specifications, and designs were prepared in accordance with the applicable requirements and shall be sealed by the registered professional engineer in accordance with section 327.411, as applicable. The department shall use the complete, sealed engineering plans, specifications, and designs as submitted in addition to permit applications and other relevant information, documents, and materials in developing comments on the engineering submittals and in determining whether to issue or deny permits. The review of documents, plans, specifications, and designs sealed by a registered professional engineer for an applicant shall be conducted by a registered professional engineer or an engineering intern on behalf of the department.

3. The department shall designate supervisory registered professional engineers for permitting purposes under this chapter and chapters 260, 278, 319, 444, 643, and 644. Any permit applicant receiving written comments on an engineering submittal may request a determination from the department's supervisory registered professional engineer as to a final disposition of the department's comments regarding engineering submittals in determining a decision on the permit. The department's supervisory engineer shall inform the permit applicant of a preliminary decision within fifteen days after the permit

applicant's request for a determination and shall make a final determination within thirty days of such request.

4. Nothing in this section shall be construed to require plans or other submittals to the department pursuant to an application to come under a general permit or an application for a site specific permit to be prepared by a registered professional engineer, unless otherwise required under state or federal law.

**640.128. VOLUNTARY REPORTING BY PERMIT HOLDERS, DEPARTMENT TO NOTIFY LOCAL AND STATE HEALTH DEPARTMENTS OF POTENTIAL RISKS.** — If an entity that holds a permit issued under chapter 644 or under sections 640.100 to 640.140 voluntarily reports to the department of natural resources the results of any water quality testing conducted by the entity, and such results indicate a potential risk to public health, the department shall immediately notify the local public health authority and the department of health and senior services.

**640.850. COMMITTEE TO BE CONVENED, PURPOSE, REPORT.** — The governor shall convene a committee of representatives of the departments of health and senior services, natural resources, economic development, agriculture, and conservation. The committee shall evaluate opportunities for consolidating services with the goal of improving efficiency and reducing cost while optimizing the benefits to the citizens of Missouri. As part of its evaluation, the committee shall specifically consider the transfer of the division of energy from the department of natural resources to the department of economic development and the consolidation of water quality laboratory testing under the department of health and senior services for purposes of meeting water testing requirements of the federal Safe Drinking Water Act and the Federal Water Pollution Control Act. The committee shall provide recommendations to the governor and general assembly no later than December 31, 2011.

**643.020. DEFINITIONS.** — When used in this chapter and in standards, rules and regulations promulgated under authority of this chapter, the following words and phrases mean:

- (1) "AHERA", Asbestos Hazard Emergency Response Act of 1986 (P.L. 99-519);
- (2) "Abatement project designer", an individual who designs or plans AHERA asbestos abatement;
- (3) "Air cleaning device", any method, process, or equipment which removes, reduces, or renders less obnoxious air contaminants discharged into ambient air;
- (4) "Air contaminant", any particulate matter or any gas or vapor or any combination thereof;
- (5) "Air contaminant source", any and all sources of air contaminants whether privately or publicly owned or operated;
- (6) "Air pollution", the presence in the ambient air of one or more air contaminants in quantities, of characteristics and of a duration which directly and proximately cause or contribute to injury to human, plant, or animal life or health or to property or which unreasonably interferes with the enjoyment of life or use of property;
- (7) "Ambient air", all space outside of buildings, stacks, or exterior ducts;
- (8) "Area of the state", any geographical area designated by the commission;
- (9) "Asbestos", the asbestiform varieties of chrysotile, crocidolite, amosite, anthophyllite, tremolite and actinolite;
- (10) "Asbestos abatement", the encapsulation, enclosure or removal of [asbestos containing] **asbestos-containing** materials in or from a building or air contaminant source, or preparation of friable [asbestos containing] **asbestos-containing** material prior to demolition;

(11) "Asbestos abatement contractor", any person who by agreement, contractual or otherwise, conducts asbestos abatement projects at a location other than his own place of business;

(12) "Asbestos abatement projects", an activity undertaken to encapsulate, enclose or remove [ten] **one hundred sixty** square feet or [sixteen] **two hundred sixty** linear feet or **thirty-five cubic feet or more of** [friable asbestos containing] **regulated asbestos-containing** materials from buildings and other air contaminant sources, or to demolish buildings and other air contaminant sources containing [ten] **one hundred sixty** square feet or [sixteen] **two hundred sixty** linear feet or **thirty-five cubic feet or more of regulated asbestos-containing materials**;

(13) "Asbestos abatement supervisor", an individual who directs, controls, or supervises others in asbestos abatement projects;

(14) "Asbestos abatement worker", an individual who engages in asbestos abatement projects;

(15) "Asbestos air sampling professional", an individual who by qualifications and experience is proficient in asbestos abatement air monitoring. The individual shall conduct, oversee or be responsible for air monitoring of asbestos abatement projects before, during and after the project has been completed;

(16) "Asbestos air sampling technician", an individual who has been trained by an air sampling professional to do air monitoring. Such individual conducts air monitoring of an asbestos abatement project before, during and after the project has been completed;

(17) "[Asbestos containing] **asbestos-containing** material", any material or product which contains more than one percent asbestos[, by weight];

(18) "Class A source", either a class A1, A2 or A3 source as defined in this section;

(19) "Class A1 source", any air contaminant source with the potential to emit equal to or greater than one hundred tons per year of an air contaminant;

(20) "Class A2 source", any air contaminant source, which is not a class A1 source, and with the potential, air cleaning devices not considered, to emit equal to or greater than one hundred tons per year of an air contaminant;

(21) "Class A3 source", any air contaminant source which emits or has the potential to emit, ten tons per year or more of any hazardous air pollutant or twenty-five tons of any combination of hazardous air pollutants, or as defined pursuant to section 112 of the federal Clean Air Act, as amended, 42 U.S.C. 7412;

(22) "Class B source", any air contaminant source with the potential, air cleaning devices not considered, to emit equal to or greater than the de minimis amounts of an air contaminant established by the commission, but not a class A source;

(23) "Commission", the air conservation commission of the state of Missouri created in section 643.040;

(24) "Competent person", as defined in the United States Occupational Safety and Health Administration's (OSHA) standard 29 CFR [1926.58] **1926.1101** (b). Such person shall also be a certified asbestos abatement supervisor;

(25) "Conference, conciliation and persuasion", a process of verbal or written communications consisting of meetings, reports, correspondence or telephone conferences between authorized representatives of the department and the alleged violator. The process shall, at a minimum, consist of one offer to meet with the alleged violator tendered by the department. During any such meeting, the department and the alleged violator shall negotiate in good faith to eliminate the alleged violation and shall attempt to agree upon a plan to achieve compliance;

(26) "De minimis source", any air contaminant source with a potential to emit an air contaminant, air cleaning devices not considered, less than that established by the commission as de minimis for the air contaminant;

(27) "Department", the department of natural resources of the state of Missouri;

(28) "Director", the director of the department of natural resources;

(29) "Emergency asbestos project", an asbestos project that must be undertaken immediately to prevent imminent, severe, human exposure or to restore essential facility operation;

(30) "Emission", the discharge or release into the atmosphere of one or more air contaminants;

(31) "Emission control regulations", limitations on the emission of air contaminants into the ambient air;

(32) "Friable [asbestos containing] **asbestos-containing material**", any [asbestos containing material which is applied to ceilings, walls, structural members, piping, ductwork or any other part of a building or other air contaminant sources and which, when dry, may be crumbled, pulverized or reduced to powder by hand pressure] **material containing more than one percent, as determined by either the method specified in appendix E, section 1 Polarized Light Microscopy in 40 CFR Part 61, Subpart M or EPA/600/R-93/116 Method for the Determination of Asbestos in Bulk Building Materials, asbestos that, when dry, can be crumbled, pulverized or reduced to powder by hand pressure;**

(33) "**Grinding**", to reduce to powder or small fragments and includes mechanical chipping or drilling;

[(33)] (34) "Inspector", an individual[, under AHERA,] who collects and assimilates information used to determine whether [asbestos containing] **asbestos-containing** material is present in a building or other air contaminant sources;

[(34)] (35) "Management planner", an individual, under AHERA, who devises and writes plans for asbestos abatement;

[(35)] (36) "Minor violation", a violation which possesses a small potential to harm the environment or human health or cause pollution, was not knowingly committed, and is not defined by the United States Environmental Protection Agency as other than minor;

[(36)] (37) "Nonattainment area", any area designated by the governor as a "nonattainment area" as defined in the federal Clean Air Act, as amended, 42 U.S.C. 7501;

(38) "**Nonfriable asbestos-containing material**", any **material containing more than one percent asbestos as determined by either the method specified in appendix E, section 1 Polarized Light Microscopy in 40 CFR Part 61, Subpart M or EPA/600/R-93/116 Method for the Determination of Asbestos in Bulk Building Materials, that, when dry, cannot be crumbled, pulverized or reduced to powder by hand pressure;**

[(37)] (39) "Person", any individual, partnership, copartnership, firm, company, or public or private corporation, association, joint stock company, trust, estate, political subdivision, or any agency, board, department, or bureau of the state or federal government, or any other legal entity whatever which is recognized by law as the subject of rights and duties;

[(38)] (40) "**Regulated asbestos-containing material**" or "**RACM**";

(a) **Friable asbestos-containing material;**

(b) **Category I nonfriable asbestos-containing material that will be or has been subjected to sanding, grinding, cutting, or abrading; or**

(c) **Category II nonfriable asbestos-containing material that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations;**

(41) "**School district**", **seven-director districts, urban school districts, and metropolitan school districts, as defined in section 160.011;**

(42) "Small business", for the purpose of sections 643.010 to [643.190] **643.355**, a small business shall include any business regulated under this chapter, which is not a class A source and which employs less than one hundred people and emits less than fifty tons of any regulated pollutant per year and less than seventy-five tons of all regulated pollutants or as otherwise defined by the commission by rule.

**643.040. AIR CONSERVATION COMMISSION CREATED — MEMBERS, TERMS, EXPENSES, MEETINGS.** — 1. There is created hereby an air pollution control agency to be known as the "Air Conservation Commission of the State of Missouri", whose domicile for the purposes of sections 643.010 to [643.190] **643.355** is the department of natural resources of the state of Missouri. The commission shall consist of seven members appointed by the governor, with the advice and consent of the senate. No more than four of the members shall belong to the same political party and no two members shall be a resident of and domiciled in the same senatorial district. At the first meeting of the commission and at yearly intervals thereafter, the members shall select from among themselves a chairman and a vice chairman.

2. All members shall be representative of the general interest of the public and shall have an interest in and knowledge of air conservation and the effects and control of air contaminants. At least three of such members shall represent agricultural, industrial and labor interests, respectively. The governor shall not appoint any other person who has a substantial interest as defined in section 105.450 in any business entity regulated under this chapter or any business entity which would be regulated under this chapter if located in Missouri. The commission shall establish rules of procedure which specify when members shall exempt themselves from participating in discussions and from voting on issues before the commission due to potential conflict of interest.

3. The members' terms of office shall be four years and until their successors are selected and qualified, except that the terms of those first appointed shall be staggered to expire at intervals of one, two and three years after the date of appointment as designated by the governor at the time of appointment. There is no limitation of the number of terms any appointed member may serve. If a vacancy occurs the governor may appoint a member for the remaining portion of the unexpired term created by the vacancy. The governor may remove any appointed member for cause. The members of the commission shall be reimbursed for travel and other expenses actually and necessarily incurred in the performance of their duties.

4. The commission shall hold at least nine regular meetings each year and such additional regular meetings as the chairman deems desirable at a place and time to be fixed by the chairman. Special meetings may be called by three members of the commission upon delivery of written notice to each member of the commission. Reasonable written notice of all meetings shall be given to all members of the commission. Four members of the commission shall constitute a quorum. All powers and duties conferred upon members of the commission shall be exercised personally by the members and not by alternates or representatives. All actions of the commission shall be taken at meetings open to the public, except as provided in chapter 610. Any member absent from four regular commission meetings per calendar year for any cause whatsoever shall be deemed to have resigned and the vacancy shall be filled immediately in accordance with subsection 1 and subsection 3 of this section.

**643.050. POWERS AND DUTIES OF COMMISSION — RULES, PROCEDURE.** — 1. In addition to any other powers vested in it by law the commission shall have the following powers:

(1) Adopt, promulgate, amend and repeal rules and regulations consistent with the general intent and purposes of sections 643.010 to [643.190] **643.355**, chapter 536, and Titles V and VI of the federal Clean Air Act, as amended, 42 U.S.C. 7661, et seq., including but not limited to:

(a) Regulation of use of equipment known to be a source of air contamination;

(b) Establishment of maximum quantities of air contaminants that may be emitted from any air contaminant source; and

(c) Regulations necessary to enforce the provisions of Title VI of the Clean Air Act, as amended, 42 U.S.C. 7671, et seq., regarding any Class I or Class II substances as defined therein;

(2) After holding public hearings in accordance with section 643.070, establish areas of the state and prescribe air quality standards for such areas giving due recognition to variations, if any,

in the characteristics of different areas of the state which may be deemed by the commission to be relevant;

(3) (a) To require persons engaged in operations which result in air pollution to monitor or test emissions and to file reports containing information relating to rate, period of emission and composition of effluent;

(b) Require submission to the director for approval of plans and specifications for any article, machine, equipment, device, or other contrivance specified by regulation the use of which may cause or control the issuance of air contaminants; but any person responsible for complying with the standards established under sections 643.010 to [643.190] **643.355** shall determine, unless found by the director to be inadequate, the means, methods, processes, equipment and operation to meet the established standards;

(4) Hold hearings upon appeals from orders of the director or from any other actions or determinations of the director hereunder for which provision is made for appeal, and in connection therewith, issue subpoenas requiring the attendance of witnesses and the production of evidence reasonably relating to the hearing;

(5) Enter such order or determination as may be necessary to effectuate the purposes of sections 643.010 to [643.190] **643.355**. In making its orders and determinations hereunder, the commission shall exercise a sound discretion in weighing the equities involved and the advantages and disadvantages to the person involved and to those affected by air contaminants emitted by such person as set out in section 643.030. If any small business, as defined by section 643.020, requests information on what would constitute compliance with the requirements of sections 643.010 to [643.190] **643.355** or any order or determination of the department or commission, the department shall respond with written criteria to inform the small business of the actions necessary for compliance. No enforcement action shall be undertaken by the department or commission until the small business has had a period of time, negotiated with the department, to achieve compliance;

(6) Cause to be instituted in a court of competent jurisdiction legal proceedings to compel compliance with any final order or determination entered by the commission or the director;

(7) Settle or compromise in its discretion, as it may deem advantageous to the state, any suit for recovery of any penalty or for compelling compliance with the provisions of any rule;

(8) Develop such facts and make such investigations as are consistent with the purposes of sections 643.010 to [643.190] **643.355**, and, in connection therewith, to enter or authorize any representative of the department to enter at all reasonable times and upon reasonable notice in or upon any private or public property for the purpose of inspecting or investigating any condition which the commission or director shall have probable cause to believe to be an air contaminant source **or upon any private or public property having material information relevant to said air contaminant source**. The results of any such investigation shall be reduced to writing, and a copy thereof shall be furnished to the owner or operator of the property. No person shall refuse entry or access, requested for purposes of inspection under this provision, to an authorized representative of the department who presents appropriate credentials, nor obstruct or hamper the representative in carrying out the inspection. A suitably restricted search warrant, upon a showing of probable cause in writing and upon oath, shall be issued by any judge having jurisdiction to any such representative for the purpose of enabling him to make such inspection;

(9) Secure necessary scientific, technical, administrative and operational services, including laboratory facilities, by contract or otherwise, with any educational institution, experiment station, or any board, department, or other agency of any political subdivision or state or the federal government;

(10) Classify and identify air contaminants; and

(11) Hold public hearings as required by sections 643.010 to [643.190] **643.355**.

2. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

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3. The commission shall have the following duties with respect to the prevention, abatement and control of air pollution:

(1) Prepare and develop a general comprehensive plan for the prevention, abatement and control of air pollution;

(2) Encourage voluntary cooperation by persons or affected groups to achieve the purposes of sections 643.010 to [643.190] **643.355**;

(3) Encourage political subdivisions to handle air pollution problems within their respective jurisdictions to the extent possible and practicable and provide assistance to political subdivisions;

(4) Encourage and conduct studies, investigations and research;

(5) Collect and disseminate information and conduct education and training programs;

(6) Advise, consult and cooperate with other agencies of the state, political subdivisions, industries, other states and the federal government, and with interested persons or groups;

(7) Represent the state of Missouri in all matters pertaining to interstate air pollution including the negotiations of interstate compacts or agreements.

4. Nothing contained in sections 643.010 to [643.190] **643.355** shall be deemed to grant to the commission or department any jurisdiction or authority with respect to air pollution existing solely within commercial and industrial plants, works, or shops or to affect any aspect of employer-employee relationships as to health and safety hazards.

5. Any information relating to secret processes or methods of manufacture or production discovered through any communication required under this section shall be kept confidential.

**643.060. POWERS AND DUTIES OF DIRECTOR.** — In addition to any other powers vested by law, the director shall have the following powers and duties:

(1) Retain, employ, provide for, and compensate, within appropriations available therefor, such consultants, assistants, deputies, clerks, and other employees on a full- or part-time basis as may be necessary to carry out the provisions of sections 643.010 to [643.190] **643.355** and prescribe the times at which they shall be appointed and their powers and duties;

(2) Accept, receive and administer grants or other funds or gifts from public and private agencies including the federal government for the purpose of carrying out any of the functions of sections 643.010 to [643.190] **643.355**. The director shall apply for all available grants and funds authorized and distributed pursuant to Title XI of the federal Clean Air Act, as amended, 29 U.S.C. 1662e, for training, assistance and payments to eligible individuals. The director shall report annually to the governor and the general assembly, the amount of revenue received under Title XI of the Clean Air Act and the distribution of such funds to eligible persons. Funds received by the director pursuant to this section shall be deposited with the state treasurer and held and disbursed by him in accordance with the appropriations of the general assembly. The director is authorized to enter into contracts as he may deem necessary for carrying out the provisions of sections 643.010 to [643.190] **643.355**;

(3) Budget and receive duly appropriated moneys for expenditures to carry out the provisions and purposes of sections 643.010 to [643.190] **643.355**;

(4) Administer and enforce sections 643.010 to [643.190] **643.355**, investigate complaints, issue orders and take all actions necessary to implement sections 643.010 to [643.190] **643.355**;

(5) Receive and act upon reports, plans, specifications and applications submitted under rules promulgated by the commission. Any person aggrieved by any action of the director under this provision shall be entitled to a hearing before the commission as provided in section 643.080. The commission may sustain, reverse, or modify any action of the director taken under this provision, or make such other order as the commission shall deem appropriate under the circumstances.

**643.079. FEES, AMOUNT — DEPOSIT OF MONEYS, WHERE, SUBACCOUNT TO BE MAINTAINED — CIVIL ACTION FOR FAILURE TO REMIT FEES, EFFECT UPON PERMIT —**

**AGENCIES, DETERMINATION OF FEES.** — 1. Any air contaminant source required to obtain a permit issued under sections 643.010 to [643.190] **643.355** shall pay annually beginning April 1, 1993, a fee as provided herein. For the first year the fee shall be twenty-five dollars per ton of each regulated air contaminant emitted. Thereafter, the fee shall be set every three years by the commission by rule and shall be at least twenty-five dollars per ton of regulated air contaminant emitted but not more than forty dollars per ton of regulated air contaminant emitted in the previous calendar year. If necessary, the commission may make annual adjustments to the fee by rule. The fee shall be set at an amount consistent with the need to fund the reasonable cost of administering sections 643.010 to [643.190] **643.355**, taking into account other moneys received pursuant to sections 643.010 to [643.190] **643.355**. For the purpose of determining the amount of air contaminant emissions on which the fees authorized under this section are assessed, a facility shall be considered one source under the definition of subsection 2 of section 643.078, except that a facility with multiple operating permits shall pay the emission fees authorized under this section separately for air contaminants emitted under each individual permit.

2. A source which produces charcoal from wood shall pay an annual emission fee under this subsection in lieu of the fee established in subsection 1 of this section. The fee shall be based upon a maximum fee of twenty-five dollars per ton and applied upon each ton of regulated air contaminant emitted for the first four thousand tons of each contaminant emitted in the amount established by the commission pursuant to subsection 1 of this section, reduced according to the following schedule:

(1) For fees payable under this subsection in the years 1993 and 1994, the fee shall be reduced by one hundred percent;

(2) For fees payable under this subsection in the years 1995, 1996 and 1997, the fee shall be reduced by eighty percent;

(3) For fees payable under this subsection in the years 1998, 1999 and 2000, the fee shall be reduced by sixty percent.

3. The fees imposed in subsection 2 of this section shall not be imposed or collected after the year 2000 unless the general assembly reimposes the fee.

4. Each air contaminant source with a permit issued under sections 643.010 to [643.190] **643.355** shall pay the fee for the first four thousand tons of each regulated air contaminant emitted each year but no air contaminant source shall pay fees on total emissions of regulated air contaminants in excess of twelve thousand tons in any calendar year. A permitted air contaminant source which emitted less than one ton of all regulated pollutants shall pay a fee equal to the amount per ton set by the commission. An air contaminant source which pays emission fees to a holder of a certificate of authority issued pursuant to section 643.140 may deduct such fees from any amount due under this section. The fees imposed in this section shall not be applied to carbon oxide emissions. The fees imposed in subsection 1 and this subsection shall not be applied to sulfur dioxide emissions from any Phase I affected unit subject to the requirements of Title IV, Section 404, of the federal Clean Air Act, as amended, 42 U.S.C. 7651, et seq., any sooner than January 1, 2000. The fees imposed on emissions from Phase I affected units shall be consistent with and shall not exceed the provisions of the federal Clean Air Act, as amended, and the regulations promulgated thereunder. Any such fee on emissions from any Phase I affected unit shall be reduced by the amount of the service fee paid by that Phase I affected unit pursuant to subsection 8 of this section in that year. Any fees that may be imposed on Phase I sources shall follow the procedures set forth in subsection 1 and this subsection and shall not be applied retroactively.

5. Moneys collected under this section shall be transmitted to the director of revenue for deposit in appropriate subaccounts of the natural resources protection fund created in section 640.220. A subaccount shall be maintained for fees paid by air contaminant sources which are required to be permitted under Title V of the federal Clean Air Act, as amended, 42 U.S.C. Section 7661, et seq., and used, upon appropriation, to fund activities by the department to implement the operating permits program authorized by Title V of the federal Clean Air Act, as

amended. Another subaccount shall be maintained for fees paid by air contaminant sources which are not required to be permitted under Title V of the federal Clean Air Act as amended, and used, upon appropriation, to fund other air pollution control program activities. Another subaccount shall be maintained for service fees paid under subsection 8 of this section by Phase I affected units which are subject to the requirements of Title IV, Section 404, of the federal Clean Air Act Amendments of 1990, as amended, 42 U.S.C. 7651, and used, upon appropriation, to fund air pollution control program activities. The provisions of section 33.080 to the contrary notwithstanding, moneys in the fund shall not revert to general revenue at the end of each biennium. Interest earned by moneys in the subaccounts shall be retained in the subaccounts. The per-ton fees established under subsection 1 of this section may be adjusted annually, consistent with the need to fund the reasonable costs of the program, but shall not be less than twenty-five dollars per ton of regulated air contaminant nor more than forty dollars per ton of regulated air contaminant. The first adjustment shall apply to moneys payable on April 1, 1994, and shall be based upon the general price level for the twelve-month period ending on August thirty-first of the previous calendar year.

6. The department may initiate a civil action in circuit court against any air contaminant source which has not remitted the appropriate fees within thirty days. In any judgment against the source, the department shall be awarded interest at a rate determined pursuant to section 408.030 and reasonable attorney's fees. In any judgment against the department, the source shall be awarded reasonable attorney's fees.

7. The department shall not suspend or revoke a permit for an air contaminant source solely because the source has not submitted the fees pursuant to this section.

8. Any Phase I affected unit which is subject to the requirements of Title IV, Section 404, of the federal Clean Air Act, as amended, 42 U.S.C. 7651, shall pay annually beginning April 1, 1993, and terminating December 31, 1999, a service fee for the previous calendar year as provided herein. For the first year, the service fee shall be twenty-five thousand dollars for each Phase I affected generating unit to help fund the administration of sections 643.010 to [643.190] **643.355**. Thereafter, the service fee shall be annually set by the commission by rule, following public hearing, based on an annual allocation prepared by the department showing the details of all costs and expenses upon which such fees are based consistent with the department's reasonable needs to administer and implement sections 643.010 to [643.190] **643.355** and to fulfill its responsibilities with respect to Phase I affected units, but such service fee shall not exceed twenty-five thousand dollars per generating unit. Any such Phase I affected unit which is located on one or more contiguous tracts of land with any Phase II generating unit that pays fees under subsection 1 or subsection 2 of this section shall be exempt from paying service fees under this subsection. A "contiguous tract of land" shall be defined to mean adjacent land, excluding public roads, highways and railroads, which is under the control of or owned by the permit holder and operated as a single enterprise.

9. The department of natural resources shall determine the fees due pursuant to this section by the state of Missouri and its departments, agencies and institutions, including two- and four-year institutions of higher education. The director of the department of natural resources shall forward the various totals due to the joint committee on capital improvements and the directors of the individual departments, agencies and institutions. The departments, as part of the budget process, shall annually request by specific line item appropriation funds to pay said fees and capital funding for projects determined to significantly improve air quality. If the general assembly fails to appropriate funds for emissions fees as specifically requested, the departments, agencies and institutions shall pay said fees from other sources of revenue or funds available. The state of Missouri and its departments, agencies and institutions may receive assistance from the small business technical assistance program established pursuant to section 643.173.

**643.080. INVESTIGATIONS, WHEN MADE — VIOLATION, HOW ELIMINATED — HEARING, PROCEDURE — FINAL ORDER, NOTICE OF.** — 1. The director shall investigate alleged violations of sections 643.010 to [643.190] **643.355** or any rule promulgated hereunder or any term or condition of any permit and may cause to be made such other investigations as he shall deem advisable. The department shall assume the costs of investigation of alleged violations. The identity of the person who filed the complaint shall be made available consistent with chapter 610 and other provisions, as applicable.

2. If, in the opinion of the director, the investigation yields reasonable grounds to believe that a violation of [section 577.200] **sections 643.010 to 643.355** is occurring or has occurred, he shall refer such information to either or both the attorney general or the county prosecutor of the county where the violations are alleged to have occurred.

3. If, in the opinion of the director, the investigation discloses that a violation does exist which would not be a criminal violation, he may by conference, conciliation and persuasion endeavor to eliminate the violation.

4. In case of the failure by conference, conciliation and persuasion to correct or remedy any violation, the director may order abatement, suspend or revoke a permit, whichever action or actions the director deems appropriate. The director shall cause to have issued and served upon the person a written notice of such order together with a copy of the order, which shall specify the provisions of sections 643.010 to [643.190] **643.355** or the rule or the condition of the permit of which the person is alleged to be in violation, and a statement of the manner in, and the extent to which the person is alleged to be in violation. Service may be made upon any person within or without the state by registered mail, return receipt requested. Any person against whom the director issues an order may appeal the order to the commission within thirty days, and the appeal shall stay the enforcement of such order until final determination by the commission. The commission shall set a hearing on a day not less than thirty days after the date of the request. The commission may sustain, reverse, or modify the director's order, or make such other order as the commission deems appropriate under the circumstances. If any order issued by the director is not appealed within the time herein provided, the order becomes final and may be enforced as provided in section 643.151.

5. When the commission schedules a matter for hearing, the petitioner on appeal may appear at the hearing in person or by counsel, and may make oral argument, offer testimony and evidence or cross-examine witnesses.

6. After due consideration of the record, or upon default in appearance of the petitioner on the return day specified in the notice given as provided in subsection 4 of this section, the commission shall issue and enter the final order, or make such final determination as it shall deem appropriate under the circumstances, and it shall immediately notify the petitioner or respondent thereof in writing by certified or registered mail.

7. Any final order or determination or other final action by the commission shall be approved in writing by at least four members of the commission.

**643.130. JUDICIAL REVIEW.** — All final orders or determinations of the commission or the director hereunder shall be subject to judicial review pursuant to the provisions of sections 536.100 to 536.140, **except that, the provisions of section 536.110 notwithstanding, all actions seeking judicial review of any final determination of the commission or the director shall be filed in the court of appeals instead of in the circuit court.** No judicial review shall be available hereunder, however, unless and until all administrative remedies are exhausted.

**643.191. VIOLATION OF CERTAIN REQUIREMENTS UNLAWFUL, PENALTY — FALSE STATEMENTS UNLAWFUL, PENALTY.** — 1. It is unlawful for any person to knowingly violate any applicable standard, limitation, permit condition or any fee or filing requirement promulgated

pursuant to sections 643.010 to [643.190] **643.355** or any rule promulgated thereunder. Any person violating the provisions of this subsection shall, upon conviction thereof, be subject to a fine of not more than ten thousand dollars per day of violation or part thereof.

2. It is unlawful for any person to knowingly make a false statement, representation or certification in any form, in any notice or report required by a permit or to knowingly render inaccurate any monitoring device or method required to be maintained by the permitting authority under sections 643.010 to [643.190] **643.355**. Any person violating the provisions of this subsection shall, upon conviction thereof, be subject to a fine of not more than ten thousand dollars for each instance of violation.

**643.225. RULES FOR ASBESTOS ABATEMENT PROJECTS, STANDARDS AND EXAMINATIONS — CERTIFICATION REQUIREMENTS — APPLICATION — EXAMINATION, CONTENT — CERTIFICATE EXPIRES, WHEN — FEES — RENEWAL OF CERTIFICATE REQUIREMENTS — REFRESHER COURSE — FAILURE TO PASS EXAMINATION, MAY REPEAT EXAM, WHEN — FEE FOR RENEWAL.** — 1. The provisions of sections 643.225 to 643.250 shall apply to all [asbestos abatement] projects **subject to 40 CFR Part 61, Subpart M as adopted by 10 CSR 10-6.080**. The commission shall promulgate rules and regulations it deems necessary to implement and administer the provisions of sections 643.225 to 643.250, including requirements, procedures and standards relating to asbestos projects, as well as the authority to require corrective measures to be taken in asbestos abatement, **renovation, or demolition** projects as are deemed necessary to protect public health and the environment. The director shall establish any examinations for certification required by this section and shall hold such examinations at times and places as determined by the director.

2. Except as otherwise provided in sections 643.225 to 643.250, no individual shall engage in an asbestos abatement project, inspection, management plan, abatement project design or asbestos air sampling unless the person has been issued a certificate by the director, or by the commission after appeal, for that purpose.

3. In any application made to the director to obtain such certification as an inspector, management planner, abatement project designer, supervisor, contractor or worker from the department, the applicant shall include his diploma providing proof of successful completion of either a state accredited or United States Environmental Protection Agency (EPA) accredited training course as described in section 643.228. In addition, an applicant for certification as a management planner shall first be certified as an inspector. All applicants for certification as an inspector, management planner, abatement project designer, supervisor, contractor or worker shall successfully pass a state examination on Missouri state asbestos statutes and rules relating to asbestos. Certification issued hereunder shall expire one year from its effective date. Individuals applying for state certification as an asbestos air sampling professional shall have the following credentials:

(1) A bachelor of science degree in industrial hygiene plus one year of experience in the field; or

(2) A master of science degree in industrial hygiene; or

(3) Certification as an industrial hygienist as designated by the American Board of Industrial Hygiene; or

(4) Three years of practical experience in the field of industrial hygiene, including significant asbestos air monitoring experience and the completion of a forty-hour asbestos course which includes air monitoring instruction (National Institute of Occupational Safety and Health 582 course on air sampling or equivalent). In addition to these qualifications, the individual must also pass the state of Missouri asbestos examination. All asbestos air sampling technicians shall be trained and overseen by an asbestos air sampling professional and shall meet the requirements of training found in OSHA's 29 CFR [1926.58] **1926.1101**. Certification under this section as an

[AHERA asbestos] abatement project designer does not qualify an individual as an architect, engineer or land surveyor, as defined in chapter 327.

4. An application fee of seventy-five dollars shall be assessed for each category, except asbestos abatement worker, to cover administrative costs incurred. An application fee of twenty-five dollars shall be assessed for each asbestos abatement worker to cover administrative costs incurred. A fee of twenty-five dollars shall be assessed per state examination.

5. In order to qualify for renewal of a certificate, an individual shall have successfully completed an annual refresher course from [an Environmental Protection Agency or] a state of Missouri accredited training program. For each discipline, the refresher course shall review and discuss current federal and state statute and rule developments, state-of-the-art procedures and key aspects of the initial training course, as determined by the state of Missouri. For all categories except inspectors, individuals shall complete a one-day annual refresher training course for recertification. Refresher courses for inspectors shall be at least a half-day in length. Management planners shall attend the inspector refresher course, plus an additional half-day on management planning. All refresher courses shall require an individual to successfully pass an examination upon completion of the course. In the case of significant changes in Missouri state asbestos statutes or rules, an individual shall also be required to take and successfully pass an updated Missouri state asbestos examination. An individual who has failed the Missouri state asbestos examination may retake it on the next scheduled examination date. If [his certification has lapsed for more than twenty-four months, he] **an individual has not successfully completed the annual refresher course within twelve months of the expiration of his or her certification, the individual** shall be required to retake the course in his **or her** specialty area **as** described in this section. Failure to comply with the requirements for renewal of certification in this section will result in decertification. In no event shall certification or recertification constitute permission to violate sections 643.225 to 643.250 or any standard or rule promulgated under sections 643.225 to 643.250.

6. A fee of five dollars shall be paid to the state for renewal of certificates to cover administrative costs.

[7. The provisions of subsections 2 through 6 of this section, section 643.228, subdivision (4) of subsection 1 of section 643.230, sections 643.232 and 643.235, subdivisions (1) to (3) of subsection 1 of section 643.237, and subsection 2 of section 643.237 shall not apply to a person that is subject to requirements and applicable standards of the United States Environmental Protection Agency (EPA) and the United States Occupational Safety and Health Administration's (OSHA) 29 Code of Federal Regulations 1926.58 and which engages in asbestos abatement projects as part of normal operations in the facility solely at its own place or places of business. A person shall receive an exemption upon submitting to the director, on a form provided by the department, documentation of the training provided to their employees to meet the requirements of applicable OSHA and EPA rules and regulations and the type of asbestos abatement projects which constitute normal operations performed by the applicant. If the application does not meet the requirements of this subsection and the rules and regulations promulgated by the department, the applicant shall be notified, within one hundred eighty days of the receipt of the application, that his exemption has been revoked. An applicant may appeal the revocation of an exemption to the commission within thirty days of the notice of revocation. This exemption shall not apply to asbestos abatement contractors, to those persons who the commission by rule determines provide a service to the public in its place or places of business as the economic foundation of the facility, or to those persons subject to the requirements of the federal Asbestos Hazard Emergency Response Act of 1986 (P.L. 99-519). A representative of the department shall be permitted to attend, monitor and evaluate any training program provided by the exempted person. Such evaluations may be conducted without prior notice. Refusal to allow such an evaluation is sufficient grounds for loss of exemption status.

8. A fee of two hundred fifty dollars shall be submitted with the application for exemption. This is a one-time fee. Exempted persons shall submit to the director changes in curricula or other significant revisions to the training program as they occur.]

**643.232. ASBESTOS ABATEMENT CONTRACTOR REQUIRED TO REGISTER ANNUALLY, QUALIFICATIONS — PROJECT REQUIREMENTS — REGISTRATION FEE.** — 1. All asbestos abatement contractors prior to engaging in asbestos abatement projects shall:

- (1) Register with the department and reregister annually as provided by rule;
- (2) Submit an application for registration on a form developed by the department;
- (3) Use only those individuals that have been certified or trained in accordance with sections 643.225 to 643.250.

2. During asbestos abatement projects, all contractors shall:

(1) Comply with applicable United States Environmental Protection Agency regulations and guidelines, the standards for worker protection promulgated by the United States Occupational Safety and Health Administration in 29 CFR 1910.1001, 1910.1200 and [1926.58] **1926.1101**, the provisions of sections 643.225 to 643.250 and the rules and regulations promulgated thereunder. It is not intended that the director shall enforce OSHA requirements but shall have the authority to deny, revoke, or suspend registration on the basis of finding of violation by OSHA;

(2) Ensure that a competent person be on the asbestos abatement project site directing all aspects of the project during the hours that the project is being conducted.

3. A registration fee of one thousand dollars shall be paid by the person to the state prior to registration.

**643.237. PROJECTS REQUIRING SPECIAL APPLICATION, FORM, CONTENTS — PROCEDURE — FEE, EXEMPTIONS FROM FEE — EMERGENCY PROJECTS, PROCEDURE — REVISION OF PROJECT PLANS, NOTIFICATION OF DEPARTMENT REQUIRED.** — 1. Any person undertaking an asbestos abatement project of a magnitude greater than or equal to one hundred sixty square feet [or] , two hundred sixty linear feet, **or thirty-five cubic feet or regulated demolition project** shall meet the following requirements:

(1) The person shall submit an application for asbestos abatement **or demolition** to the department for review at least [twenty] **ten working** days in advance. The application shall be in the form required by the department **and shall include a copy of an asbestos inspection survey which includes but is not limited to sample analysis results, quantities of asbestos materials identified, and documentation the inspection was conducted by a certified asbestos inspector.** Such application shall include the name and address of the applicant, a description of the proposed project and any other information as may be required by the commission and provide proof to the department that all employees engaged in an asbestos abatement project are in compliance with sections 643.225 and 643.228;

(2) Persons undertaking an asbestos abatement project shall notify the department within sixty days of the completion of the project in the form required by the department;

(3) Persons undertaking an emergency asbestos abatement project of this magnitude shall submit a notification to the department within twenty-four hours of the onset of the emergency. An application for permit to abate shall be submitted to the department within seven days of the onset of the emergency;

(4) A fee of one hundred dollars shall be paid for review of each **demolition or** asbestos abatement project notification of this magnitude;

(5) Any person undertaking an asbestos abatement **or demolition** project in the jurisdiction of an authorized local air pollution control agency shall be exempt from an application fee if the authorized local agency also imposes an application fee.

2. [Any person undertaking an asbestos abatement project of a magnitude less than one hundred sixty square feet or two hundred sixty linear feet, but greater than ten square feet or sixteen linear feet shall meet the following requirements:

(1) The person shall submit notification to the department for review at least twenty days in advance. The notification shall be in the form required by the department. Such notification shall include the name and address of the applicant, a description of the proposed project and any other information as may be required by the department and provide proof to the department that all employees engaged in an asbestos abatement project are in compliance with sections 643.225 and 643.228. In addition, the person shall post for inspection, at the site, current certificates of all individuals engaged in the asbestos abatement project as well as proof of the person's current registration;

(2) Persons undertaking an asbestos abatement project shall notify the department within sixty days of the completion of the project in the form required by the department;

(3) Persons undertaking an emergency asbestos abatement project of this magnitude shall submit notification to the department within twenty-four hours of the onset of the emergency.

3.] Any person who submits an asbestos abatement **or demolition** project notification to the department shall submit actual project dates and times for his project. If the dates and times are revised on this project as submitted to the department, the person is responsible to notify the department at least twenty-four hours prior to the original starting date of the project by telephone and then followup with a written amendment stating the change in date and time. If the person does not comply with this procedure, he shall be held in violation of the notification requirements found in this section. This requirement does not change the reporting requirements for notification, post notification and emergency projects specified in this section.

**643.240. FRIABLE MATERIAL SUBJECT TO REGULATION — AIR SAMPLE ANALYSIS, HOW CONDUCTED.** — 1. Before commencement of an asbestos abatement project, persons shall make all reasonable efforts to minimize the spread of friable asbestos-containing materials to uncontaminated areas.

2. Any asbestos-containing material that will be rendered friable during the process of removal, encapsulation, enclosure or demolition is subject to all applicable federal and state regulations.

3. Analysis of asbestos air samples shall be conducted according to the United States Occupational Safety and Health Administration's (OSHA) standards in 29 CFR [1926.58] **1926.1101 or the United States Environmental Protection Agency standards in 40 CFR Part 763, Subpart E.**

**643.242. INSPECTION OF PROJECTS, WHEN — INSPECTION FEE — POSTPONEMENT OF PROJECT, NOTICE TO DEPARTMENT, FAILURE TO NOTIFY, EFFECT — EXEMPTION FROM FEE FOR LOCAL AIR POLLUTION CONTROL AGENCY, WHEN.** — 1. Asbestos abatement projects of a magnitude greater than or equal to [ten] **one hundred sixty** square feet or [sixteen] **two hundred sixty** linear feet **or thirty-five cubic feet or all regulated demolition projects** are subject to inspection.

2. The commission shall be authorized to assess a fee of not more than one hundred dollars for each on-site inspection of **an** asbestos abatement [projects] **or demolition project**. Such fees would not be assessed for more than three on-site inspections during the period an actual abatement project is in progress. Failure of the asbestos abatement contractor to notify the department of project postponement may result in the assessment of an inspection fee in the event of an on-site visit by the department.

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3. Any person undertaking an asbestos abatement project **or regulated demolition project** in the jurisdiction of an authorized local air pollution control agency shall be exempt from an inspection fee if the authorized local agency also imposes an inspection fee.

**643.245. NATURAL RESOURCES PROTECTION FUND — AIR POLLUTION ASBESTOS FEE SUBACCOUNT CREATED — PURPOSE — LAPSE INTO GENERAL REVENUE PROHIBITED — FUND DEPOSITED WHERE, BY STATE TREASURER, INTEREST CREDITED TO FUND. —** 1. All moneys received pursuant to sections 643.225 to [643.250] **643.245** and any other moneys so designated shall be placed in the state treasury and credited to the "Natural Resources Protection Fund — Air Pollution Asbestos Fee Subaccount", which is hereby created. Such moneys received pursuant to sections 643.225 to [643.250] **643.245** shall, subject to appropriation, be used solely for the purpose of administering this chapter. Any unexpended balance in such fund at the end of any appropriation period shall not be transferred to the general revenue fund of the state treasury and shall be exempt from the provisions of section 33.080.

2. The state treasurer, with the approval of the board of fund commissioners, is authorized to deposit all of the moneys in any of the qualified state depositories. All such deposits shall be secured in such manner and shall be made upon such terms and conditions as are now and may hereafter be approved by law relative to state deposits. Any interest received on such deposits shall be credited to the natural resources protection fund — air pollution asbestos fee subaccount.

**643.250. ENTRY BY DEPARTMENT ON PUBLIC OR PRIVATE PROPERTY FOR REGULATION PURPOSES — REFUSAL TO ALLOW GROUNDS FOR REVOCATION OR INJUNCTIONS, VIOLATIONS OF REGULATIONS, PENALTIES. —** 1. Any authorized representative of the department may enter at all reasonable times, in or upon public or private property for purposes required under sections 643.225 to 643.250. **In addition to any other remedy provided by law,** refusal to allow such entry shall be grounds for revocation of registration or injunctive relief.

2. Any person who knowingly violates sections 643.225 to 643.250, or any rule promulgated thereunder, shall, upon conviction, be punished by a fine of not less than twenty-five hundred dollars nor more than twenty-five thousand dollars per day of violation, or by imprisonment for not more than one year, or both. Second and successive convictions of any person shall be punished by a fine of not more than fifty thousand dollars per day of violation, or by imprisonment for not more than two years, or both.

3. Any person who violates any provision of sections 643.225 to 643.250 may, in addition to any other penalty provided by law, incur a civil penalty in an amount not to exceed ten thousand dollars for each day of violation. The civil penalty shall be in an amount to constitute an actual and substantial economic deterrent to the violation for which the civil penalty is assessed. [Any civil penalty paid shall be placed in the natural resources protection fund — air pollution asbestos fee subaccount.]

4. Notwithstanding the existence or pursuit of any other remedy provided by sections 643.225 to 643.250, the commission may maintain, in the manner provided by chapter 536, an action in the name of the state of Missouri for injunction or other process against any person to restrain or prevent any violation of the provisions of sections 643.225 to 643.250.

**644.036. PUBLIC HEARINGS — RULES AND REGULATIONS, HOW PROMULGATED — LISTINGS UNDER CLEAN WATER ACT, REQUIREMENTS, PROCEDURES. —** 1. No standard, rule or regulation or any amendment or repeal thereof shall be adopted except after a public hearing to be held after thirty days' prior notice by advertisement of the date, time and place of the hearing and opportunity given to the public to be heard. Notice of the hearings and copies of the proposed standard, rule or regulation or any amendment or repeal thereof shall also be given by regular mail, at least thirty days prior to the scheduled date of the hearing, to any person who has registered with

the director for the purpose of receiving notice of such public hearings in accordance with the procedures prescribed by the commission at least forty-five days prior to the scheduled date of the hearing. However, this provision shall not preclude necessary changes during this thirty-day period.

2. At the hearing, opportunity to be heard by the commission with respect to the subject thereof shall be afforded any interested person upon written request to the commission, addressed to the director, not later than seven days prior to the hearing, and may be afforded to other persons if convenient. In addition, any interested persons, whether or not heard, may submit, within seven days subsequent to the hearings, a written statement of their views. The commission may solicit the views, in writing, of persons who may be affected by, or interested in, proposed rules and regulations, or standards. Any person heard or represented at the hearing or making written request for notice shall be given written notice of the action of the commission with respect to the subject thereof.

3. Any standard, rule or regulation or amendment or repeal thereof shall not be deemed adopted or in force and effect until it has been approved in writing by at least four members of the commission. A standard, rule or regulation or an amendment or repeal thereof shall not become effective until a certified copy thereof has been filed with the secretary of state as provided in chapter 536.

4. Unless prohibited by any federal water pollution control act, any standard, rule or regulation or any amendment or repeal thereof which is adopted by the commission may differ in its terms and provisions as between particular types and conditions of water quality standards or of water contaminants, as between particular classes of water contaminant sources, and as between particular waters of the state.

5. Any listing required by Section 303(d) of the federal Clean Water Act, as amended, 33 U.S.C. 1251, et seq., to be sent to the U.S. Environmental Protection Agency for its approval that will result in any waters of the state being classified as impaired shall be adopted by the commission after a public hearing, or series of hearings, held in accordance with the following procedures. The department of natural resources shall publish in at least six regional newspapers, in advance, a notice by advertisement the availability of a proposed list of impaired waters of the state and such notice shall include at least ninety days' advance notice of the date, time, and place of the public hearing and opportunity given to the public to be heard. Notice of the hearings and copies of the proposed list of impaired waters also shall be posted on the department of natural resources' website and given by regular mail, at least ninety days prior to the scheduled date of the hearing, to any person who has registered with the director for the purpose of receiving notice of such public hearings. The proposed list of impaired waters shall identify the water segment, the uses to be made of such waters, the uses impaired, identify the pollutants causing or expected to cause violations of the applicable water quality standards, and provide a summary of the data relied upon to make the preliminary determination. Contemporaneous with the publication of the notice of public hearing, the department shall make available on its website all data and information it relied upon to prepare the proposed list of impaired waters, including a narrative explanation of how the department determined the water segment was impaired. At any time after the public notice and until seven days after the public hearing, the department shall accept written comments on the proposed list of impaired waters. After the public hearing and after all written comments have been submitted, the department shall prepare a written response to all comments and a revised list of impaired waters. The commission shall adopt a list of impaired waters in a public meeting during which the public shall be afforded an opportunity to respond to the department's written response to comments and revised list of impaired waters. Notice of the meeting shall include the date, time, and place of the public meeting and shall provide notice that the commission will give interested persons the opportunity to respond to the department's revised list of impaired waters and written responses to comments. At its discretion, the commission may extend public comment periods or hold additional public hearings on the proposed and revised lists

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of impaired waters. The commission shall not vote to add to the list of impaired waters any waters not recommended by the department in the proposed or revised lists of impaired waters without granting the public at least thirty additional days to comment on the proposed addition. The list of impaired waters adopted by the commission shall not be deemed to be a rule as defined by section 536.010. The listing of any water segment on the list of impaired waters adopted by the commission shall be subject to judicial review by any adversely affected party under section 536.150. [The provisions in this subsection shall expire on August 28, 2010.]

**644.051. PROHIBITED ACTS — PERMITS REQUIRED, WHEN, FEE — BOND REQUIRED OF PERMIT HOLDERS, WHEN — PERMIT APPLICATION PROCEDURES — RULEMAKING — LIMITATION ON USE OF PERMIT FEE MONEYS — PERMIT SHIELD PROVISIONS. — 1.** It is unlawful for any person:

(1) To cause pollution of any waters of the state or to place or cause or permit to be placed any water contaminant in a location where it is reasonably certain to cause pollution of any waters of the state;

(2) To discharge any water contaminants into any waters of the state which reduce the quality of such waters below the water quality standards established by the commission;

(3) To violate any pretreatment and toxic material control regulations, or to discharge any water contaminants into any waters of the state which exceed effluent regulations or permit provisions as established by the commission or required by any federal water pollution control act;

(4) To discharge any radiological, chemical, or biological warfare agent or high-level radioactive waste into the waters of the state.

2. It shall be unlawful for any person to build, erect, alter, replace, operate, use or maintain any water contaminant or point source in this state that is subject to standards, rules or regulations promulgated pursuant to the provisions of sections 644.006 to 644.141 unless such person holds a permit from the commission, subject to such exceptions as the commission may prescribe by rule or regulation. However, no permit shall be required of any person for any emission into publicly owned treatment facilities or into publicly owned sewer systems tributary to publicly owned treatment works.

3. Every proposed water contaminant or point source which, when constructed or installed or established, will be subject to any federal water pollution control act or sections 644.006 to 644.141 or regulations promulgated pursuant to the provisions of such act shall make application to the director for a permit at least thirty days prior to the initiation of construction or installation or establishment. Every water contaminant or point source in existence when regulations or sections 644.006 to 644.141 become effective shall make application to the director for a permit within sixty days after the regulations or sections 644.006 to 644.141 become effective, whichever shall be earlier. The director shall promptly investigate each application, which investigation shall include such hearings and notice, and consideration of such comments and recommendations as required by sections 644.006 to 644.141 and any federal water pollution control act. If the director determines that the source meets or will meet the requirements of sections 644.006 to 644.141 and the regulations promulgated pursuant thereto, the director shall issue a permit with such conditions as he or she deems necessary to ensure that the source will meet the requirements of sections 644.006 to 644.141 and any federal water pollution control act as it applies to sources in this state. If the director determines that the source does not meet or will not meet the requirements of either act and the regulations pursuant thereto, the director shall deny the permit pursuant to the applicable act and issue any notices required by sections 644.006 to 644.141 and any federal water pollution control act.

4. Before issuing a permit to build or enlarge a water contaminant or point source or reissuing any permit, the director shall issue such notices, conduct such hearings, and consider such factors, comments and recommendations as required by sections 644.006 to 644.141 or any federal water pollution control act. The director shall determine if any state or any provisions of

any federal water pollution control act the state is required to enforce, any state or federal effluent limitations or regulations, water quality-related effluent limitations, national standards of performance, toxic and pretreatment standards, or water quality standards which apply to the source, or any such standards in the vicinity of the source, are being exceeded, and shall determine the impact on such water quality standards from the source. The director, in order to effectuate the purposes of sections 644.006 to 644.141, shall deny a permit if the source will violate any such acts, regulations, limitations or standards or will appreciably affect the water quality standards or the water quality standards are being substantially exceeded, unless the permit is issued with such conditions as to make the source comply with such requirements within an acceptable time schedule. Prior to the development or renewal of a general permit or permit by rule, for aquaculture, the director shall convene a meeting or meetings of permit holders and applicants to evaluate the impacts of permits and to discuss any terms and conditions that may be necessary to protect waters of the state. Following the discussions, the director shall finalize a draft permit that considers the comments of the meeting participants and post the draft permit on notice for public comment. The director shall concurrently post with the draft permit an explanation of the draft permit and shall identify types of facilities which are subject to the permit conditions. Affected public or applicants for new general permits, renewed general permits or permits by rule may request a hearing with respect to the new requirements in accordance with this section. If a request for a hearing is received, the commission shall hold a hearing to receive comments on issues of significant technical merit and concerns related to the responsibilities of the Missouri clean water law. The commission shall conduct such hearings in accordance with this section. After consideration of such comments, a final action on the permit shall be rendered. The time between the date of the hearing request and the hearing itself shall not be counted as time elapsed pursuant to subdivision (1) of subsection 13 of this section.

5. The director shall grant or deny the permit within sixty days after all requirements of the Federal Water Pollution Control Act concerning issuance of permits have been satisfied unless the application does not require any permit pursuant to any federal water pollution control act. The director or the commission may require the applicant to provide and maintain such facilities or to conduct such tests and monitor effluents as necessary to determine the nature, extent, quantity or degree of water contaminant discharged or released from the source, establish and maintain records and make reports regarding such determination.

6. The director shall promptly notify the applicant in writing of his or her action and if the permit is denied state the reasons therefor. The applicant may appeal to the commission from the denial of a permit or from any condition in any permit by filing notice of appeal with the commission within thirty days of the notice of denial or issuance of the permit. **After a final action is taken on a new or reissued general permit template, a potential applicant for the general permit who can demonstrate that he or she is or may be adversely affected by any permit term or condition may appeal the terms and conditions of the general permit template within thirty days of the department's issuance of the general permit template.** The commission shall set the matter for hearing not less than thirty days after the notice of appeal is filed. In no event shall a permit constitute permission to violate the law or any standard, rule or regulation promulgated pursuant thereto.

7. In any hearing held pursuant to this section **that involves a permit, license, or registration**, the burden of proof is on the [applicant for a permit] **party specified in section 640.012**. Any decision of the commission made pursuant to a hearing held pursuant to this section is subject to judicial review as provided in section 644.071.

8. In any event, no permit issued pursuant to this section shall be issued if properly objected to by the federal government or any agency authorized to object pursuant to any federal water pollution control act unless the application does not require any permit pursuant to any federal water pollution control act.

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**9. Permits may be modified, reissued, or terminated at the request of the permittee. All requests shall be in writing and shall contain facts or reasons supporting the request.**

**10.** Unless a site-specific permit is requested by the applicant, aquaculture facilities shall be governed by a general permit issued pursuant to this section with a fee not to exceed two hundred fifty dollars pursuant to subdivision (5) of subsection 6 of section 644.052. However, any aquaculture facility which materially violates the conditions and requirements of such permit may be required to obtain a site-specific permit.

[10.] **11.** No manufacturing or processing plant or operating location shall be required to pay more than one operating fee. Operating permits shall be issued for a period not to exceed five years after date of issuance, except that general permits shall be issued for a five-year period, and also except that neither a construction nor an annual permit shall be required for a single residence's waste treatment facilities. Applications for renewal of an operating permit shall be filed at least one hundred eighty days prior to the expiration of the existing permit.

[11.] **12.** Every permit issued to municipal or any publicly owned treatment works or facility shall require the permittee to provide the clean water commission with adequate notice of any substantial new introductions of water contaminants or pollutants into such works or facility from any source for which such notice is required by sections 644.006 to 644.141 or any federal water pollution control act. Such permit shall also require the permittee to notify the clean water commission of any substantial change in volume or character of water contaminants or pollutants being introduced into its treatment works or facility by a source which was introducing water contaminants or pollutants into its works at the time of issuance of the permit. Notice must describe the quality and quantity of effluent being introduced or to be introduced into such works or facility by a source which was introducing water contaminants or pollutants into its works at the time of issuance of the permit. Notice must describe the quality and quantity of effluent being introduced or to be introduced into such works or facility and the anticipated impact of such introduction on the quality or quantity of effluent to be released from such works or facility into waters of the state.

[12.] **13.** The director or the commission may require the filing or posting of a bond as a condition for the issuance of permits for construction of temporary or future water treatment facilities or facilities that utilize innovative technology for wastewater treatment in an amount determined by the commission to be sufficient to ensure compliance with all provisions of sections 644.006 to 644.141, and any rules or regulations of the commission and any condition as to such construction in the permit. For the purposes of this section, "innovative technology for wastewater treatment" shall mean a completely new and generally unproven technology in the type or method of its application that bench testing or theory suggest has environmental, efficiency, and cost benefits beyond the standard technologies. No bond shall be required for designs approved by any federal agency or environmental regulatory agency of another state. The bond shall be signed by the applicant as principal, and by a corporate surety licensed to do business in the state of Missouri and approved by the commission. The bond shall remain in effect until the terms and conditions of the permit are met and the provisions of sections 644.006 to 644.141 and rules and regulations promulgated pursuant thereto are complied with.

[13.] **14.** (1) The department shall issue or deny applications for construction and site-specific operating permits received after January 1, 2001, within one hundred eighty days of the department's receipt of an application. For general construction and operating permit applications received after January 1, 2001, that do not require a public participation process, the department shall issue or deny the requested permits within sixty days of the department's receipt of an application.

(2) If the department fails to issue or deny with good cause a construction or operating permit application within the time frames established in subdivision (1) of this subsection, the department shall refund the full amount of the initial application fee within forty-five days of failure to meet the established time frame. If the department fails to refund the application fee within forty-five days, the refund amount shall accrue interest at a rate established pursuant to section 32.065.

(3) Permit fee disputes may be appealed to the commission within thirty days of the date established in subdivision (2) of this subsection. If the applicant prevails in a permit fee dispute appealed to the commission, the commission may order the director to refund the applicant's permit fee plus interest and reasonable attorney's fees as provided in sections 536.085 and 536.087. A refund of the initial application or annual fee does not waive the applicant's responsibility to pay any annual fees due each year following issuance of a permit.

(4) No later than December 31, 2001, the commission shall promulgate regulations defining shorter review time periods than the time frames established in subdivision (1) of this subsection, when appropriate, for different classes of construction and operating permits. In no case shall commission regulations adopt permit review times that exceed the time frames established in subdivision (1) of this subsection. The department's failure to comply with the commission's permit review time periods shall result in a refund of said permit fees as set forth in subdivision (2) of this subsection. On a semiannual basis, the department shall submit to the commission a report which describes the different classes of permits and reports on the number of days it took the department to issue each permit from the date of receipt of the application and show averages for each different class of permits.

(5) During the department's technical review of the application, the department may request the applicant submit supplemental or additional information necessary for adequate permit review. The department's technical review letter shall contain a sufficient description of the type of additional information needed to comply with the application requirements.

(6) Nothing in this subsection shall be interpreted to mean that inaction on a permit application shall be grounds to violate any provisions of sections 644.006 to 644.141 or any rules promulgated pursuant to sections 644.006 to 644.141.

[14.] **15.** The department shall respond to all requests for individual certification under Section 401 of the Federal Clean Water Act within the lesser of sixty days or the allowed response period established pursuant to applicable federal regulations without request for an extension period unless such extension is determined by the commission to be necessary to evaluate significant impacts on water quality standards and the commission establishes a timetable for completion of such evaluation in a period of no more than one hundred eighty days.

[15.] **16.** All permit fees generated pursuant to this chapter shall not be used for the development or expansion of total maximum daily loads studies on either the Missouri or Mississippi rivers.

**17. The department shall implement permit shield provisions equivalent to the permit shield provisions implemented by the U.S. Environmental Protection Agency pursuant to the Clean Water Act Section 402(k), 33 U.S.C. 1342(k), and its implementing regulations, for permits issued pursuant to chapter 644.**

**644.054. FEES, BILLING AND COLLECTION — ADMINISTRATION, GENERALLY — FEES TO BECOME EFFECTIVE, WHEN — FEES TO EXPIRE, WHEN — VARIANCES GRANTED, WHEN — FEE STRUCTURE REVIEW.** — 1. Fees imposed in sections 644.052 and 644.053 shall, except for those fees imposed pursuant to subsection 4 and subsections 6 to 13 of section 644.052, become effective October 1, 1990, and shall expire [December 31, 2010] **September 1, 2013**. Fees imposed pursuant to subsection 4 and subsections 6 to 13 of section 644.052 shall become effective August 28, 2000, and shall expire on [December 31, 2010] **September 1, 2013**. The clean water commission shall promulgate rules and regulations on the procedures for billing and collection. All sums received through the payment of fees shall be placed in the state treasury and credited to an appropriate subaccount of the natural resources protection fund created in section 640.220. Moneys in the subaccount shall be expended, upon appropriation, solely for the administration of sections 644.006 to 644.141. Fees collected pursuant to subsection 10 of section 644.052 by a city, a public sewer district, a public water district or other publicly owned treatment works are state fees. Five percent of the fee revenue collected shall be retained by the city, public

sewer district, public water district or other publicly owned treatment works as reimbursement of billing and collection expenses.

2. The commission may grant a variance pursuant to section 644.061 to reduce fees collected pursuant to section 644.052 for facilities that adopt systems or technologies that reduce the discharge of water contaminants substantially below the levels required by commission rules.

3. Fees imposed in subsections 2 to 6 of section 644.052 shall be due on the date of application and on each anniversary date of permit issuance thereafter until the permit is terminated.

4. **The director of the department of natural resources shall conduct a comprehensive review of the fee structure in sections 644.052 and 644.053. The review shall include stakeholder meetings in order to solicit stakeholder input. The director shall submit a report to the general assembly by December 31, 2012, which shall include its findings and a recommended plan for the fee structure. The plan shall also include time lines for permit issuance, provisions for expedited permits, and recommendations for any other improved services provided by the fee funding.**

**644.071. JUDICIAL REVIEW AUTHORIZED.** — 1. All final orders or determinations of the commission or the director made pursuant to the provisions of sections 644.006 to 644.141 are subject to judicial review pursuant to the provisions of chapter 536, **except that, the provisions of section 536.110 notwithstanding, all actions seeking judicial review of any final order or determination of the commission or the director shall be filed in the court of appeals instead of in the circuit court.** No judicial review shall be available, however, unless and until all administrative remedies are exhausted.

2. In any suit filed pursuant to section 536.050 concerning the validity of the commission's standards, rules and regulations, the court shall review the record made before the commission to determine the validity and reasonableness of such standards, rules, limitations, and regulations and may hear such additional evidence as it deems necessary.

**644.145. AFFORDABILITY FINDING REQUIRED, WHEN — DEFINITIONS — PROCEDURES TO BE ADOPTED — APPEAL OF DETERMINATION.** — 1. **When issuing permits under this chapter for discharges from combined or separate sanitary sewer systems or publicly-owned treatment works, or when enforcing provisions of this chapter or the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq. pertaining to any portion of a combined or separate sanitary sewer system or publicly-owned treatment works, the department of natural resources shall make a finding of affordability upon which to base such permits and decisions, to the extent allowable under this chapter and the Federal Water Pollution Control Act.**

2. When used in this chapter and in standards, rules and regulations promulgated pursuant to this chapter, the following words and phrases mean:

(1) "Affordability", with respect to payment of a utility bill, a measure of whether an individual customer or household can pay the bill without undue hardship or unreasonable sacrifice in the essential lifestyle or spending patterns of the individual or household, taking into consideration the criteria described in subsection 3 of this section;

(2) "Financial capability", the financial capability of a community to make investments necessary to make water quality-related improvements.

3. The department of natural resources shall adopt procedures by which it will determine whether a permit or decision is affordable. Such determination shall be based upon reasonably available empirical data and shall include an assessment of the affordability of the permit or decision to any private or public person or entity affected by such permit. The determination shall be based upon the following criteria:

- (1) A community's financial capability and ability to raise or secure necessary funding;
  - (2) Affordability of pollution control options for the individuals or households of the community;
  - (3) An evaluation of the overall costs and environmental benefits of the control technologies;
  - (4) An inclusion of ways to reduce economic impacts on distressed populations in the community, including but not limited to, low and fixed income populations. This requirement includes but is not limited to:
    - (a) Allowing adequate time in implementation schedules to mitigate potential adverse impacts on distressed populations resulting from the costs of the improvements and taking into consideration local community economic considerations; and
    - (b) Allowing for reasonable accommodations for regulated entities when inflexible standards and fines would impose a disproportionate financial hardship in light of the environmental benefits to be gained;
  - (5) An assessment of other community investments relating to environmental improvements;
  - (6) An assessment of factors set forth in the United States Environmental Protection Agency's guidance, including but not limited to the "Combined Sewer Overflow Guidance for Financial Capability Assessment and Schedule Development" that may ease the cost burdens of implementing wet weather control plans, including but not limited to small system considerations, the attainability of water quality standards, and the development of wet weather standards; and
  - (7) An assessment of any other relevant local community economic condition.
4. Prescriptive formulas and measures used in determining financial capability, affordability, and thresholds for expenditure, such as median household income, should not be considered to be the only indicator of a community's ability to implement control technology and shall be viewed in the context of other economic conditions rather than as a threshold to be achieved.
5. If the department of natural resources fails to make a finding of affordability as indicated in this section, the proposed permit or decision shall be null, void and unenforceable.
6. The department of natural resources' findings under this section may be appealed to the commission pursuant to subsection 6 of section 644.051.

**701.033. DEPARTMENT OF HEALTH AND SENIOR SERVICES — POWERS AND DUTIES — RULES, PROCEDURE.**— 1. The department shall have the power and duty to:

- (1) Promulgate such rules and regulations as are necessary to carry out the provisions of sections 701.025 to 701.059;
- (2) Cause investigations to be made when a violation of any provision of sections 701.025 to 701.059 or the on-site sewage disposal rules promulgated under sections 701.025 to 701.059 is reported to the department;
- (3) Enter at reasonable times and determine probable cause that a violation exists, upon private or public property for the purpose of inspecting and investigating conditions relating to the administration and enforcement of sections 701.025 to 701.059 and the on-site sewage disposal rules promulgated under sections 701.025 to 701.059;
- (4) Authorize the trial or experimental use of innovative systems for on-site sewage disposal, after consultation with the staff of the Missouri clean water commission, upon such conditions as the department may set;
- (5) Provide technical assistance and guidance to any other administrative authority in the state on the regulation and enforcement of standards for individual on-site sewage disposal systems, at the request of such other administrative authority, or when the



department determines that such assistance or guidance is necessary to prevent a violation of sections 701.025 to 701.059.

2. No rule or portion of a rule promulgated under the authority of sections 701.025 to 701.059 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

**701.058. STAKEHOLDER MEETINGS, PERMITS AND INSPECTIONS OF SYSTEMS — REPORT.** — The department of natural resources and the department of health and senior services shall jointly hold stakeholder meetings for the purpose of gathering data and information regarding permits and inspections for on-site sewage disposal systems. The departments shall evaluate the data and information obtained and present their findings and recommendations in a report to be submitted to the general assembly by December 31, 2011.

**SECTION 1. NONSEVERABILITY OF ACT.** — Notwithstanding the provisions of section 1.140, RSMo, to the contrary, the provisions of sections 37.970, 67.4500, 67.4505, 67.4510, 67.4515, 67.4520, 192.1250, 247.060, 253.090, 442.014, 444.771, 444.773, 621.250, 640.018, 640.128, 640.850, 643.020, 643.040, 643.050, 643.060, 643.079, 643.080, 643.130, 643.191, 643.225, 643.232, 643.237, 643.240, 643.242, 643.245, 643.250, 644.036, 644.051, 644.054, 644.071, 644.145, 701.033, 701.058, and 1 of this act shall be nonseverable, and if any provision is for any reason held to be invalid, such decision shall invalidate all of the remaining provisions of sections 37.970, 67.4500, 67.4505, 67.4510, 67.4515, 67.4520, 192.1250, 247.060, 253.090, 442.014, 444.771, 444.773, 621.250, 640.018, 640.128, 640.850, 643.020, 643.040, 643.050, 643.060, 643.079, 643.080, 643.130, 643.191, 643.225, 643.232, 643.237, 643.240, 643.242, 643.245, 643.250, 644.036, 644.051, 644.054, 644.071, 644.145, 701.033, 701.058, and 1 of this act.

**[386.850. TASKFORCE, REQUIRED MEETINGS.** — The Missouri energy task force created by executive order 05-46 shall reconvene at least one time per year for the purpose of reviewing progress made toward meeting the recommendations set forth in the task force's final report as issued under the executive order. The task force shall issue its findings in a status report to the governor and general assembly no later than December thirty-first of each year.]

**[643.253. DEFINITIONS.** — As used in sections 643.253 and 643.255, the following terms mean:

(1) "Asbestos", the asbestiform varieties of chrysotile, crocidolite, amosite, anthophyllite, tremolite and actinolite;

(2) "Asbestos abatement projects", an activity undertaken to encapsulate, enclose or remove ten square feet or sixteen linear feet or more of friable asbestos-containing materials from buildings and other air contaminant sources, or to demolish buildings and other air contaminant sources containing ten square feet or sixteen linear feet or more;

(3) "Friable asbestos-containing material", any material that contains more than one percent asbestos, by weight, which is applied to ceilings, walls, structural members, piping, ductwork or any other part of a building or other air contaminant sources and which, when dry, may be crumbled, pulverized or reduced to powder by hand pressure.]

**[643.260. DEFINITIONS.** — As used in sections 643.260 to 643.265, the following terms mean:

(1) "Asbestos", the asbestiform varieties of chrysotile, crocidolite, amosite, anthophyllite, tremolite and actinolite;

(2) "Asbestos-containing material", any material which contains more than one percent of asbestos by weight;

(3) "Friable asbestos-containing material", any material that contains more than one percent asbestos, by weight, which is applied to ceilings, walls, structural members, piping, ductwork or any other part of a building or other air contaminant sources and which, when dry, may be crumbled, pulverized or reduced to powder by hand pressure;

(4) "Person", any individual, partnership, copartnership, firm, company, or public or private corporation, association, joint stock company, trust, the state, political subdivision, or any agency, board, department or bureau of the state or federal government, or any other legal entity whatever which is recognized by law as the subject of rights and duties;

(5) "School district", seven-director districts, urban school districts and metropolitan school districts, as defined in section 160.011.]

**[701.332. PROJECT NOT TO INCLUDE SINGLE-FAMILY DWELLING — OTHER EXCLUDED STRUCTURES, CONDITIONS.** — For purposes of sections 643.225 to 643.250, the term "project" shall exclude any single-family owner-occupied dwellings and vacant public or privately owned residential structures of four dwelling units or less being demolished for the sole purpose of public health, safety or welfare. All vacant structures of four dwelling units or less located in any city not within a county shall be exempt from all geographical and time restrictions for the purpose of demolition pursuant to the National Emissions Standards for Asbestos. Excluded structures that are not located within a city not within a county shall be geographically dispersed. All excluded structures shall be demolished pursuant to a public safety determination by a local or state governmental agency and pose a threat to public safety.]

**SECTION B. EMERGENCY CLAUSE.** — Because immediate action is necessary to maintain regulatory oversight by the state of Missouri, the repeal of sections 386.850, 643.253, 643.260, and 701.332, the repeal and reenactment of sections 253.090, 444.773, 643.130, 644.036, 644.051, 644.054, 644.071, and 701.033, and the enactment of sections 37.970, 67.4500, 67.4505, 67.4510, 67.4515, 67.4520, 192.1250, 444.771, 620.2300, 640.018, 640.128, 640.850, 644.145, 701.058, and 1 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal of sections 386.850, 643.253, 643.260, and 701.332, the repeal and reenactment of sections 253.090, 444.773, 643.130, 644.036, 644.051, 644.054, 644.071, and 701.033, and the enactment of sections 37.970, 67.4500, 67.4505, 67.4510, 67.4515, 67.4520, 192.1250, 444.771, 620.2300, 640.018, 640.128, 640.850, 644.145, 701.058, and 1 of this act shall be in full force and effect upon its passage and approval.

Approved July 11, 2011

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HB 101 [CCS SCS HB 101]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Changes the laws regarding liquor control**

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AN ACT to repeal sections 311.297, 311.482, 311.485, and 311.486, RSMo, and to enact in lieu thereof six new sections relating to liquor control.

SECTION

- A. Enacting clause.
- 311.087. Wine shops, sale of intoxicating liquor by the drink license--wine shop defined--fee.
- 311.088. Special permit for sale of intoxicating liquor by the drink from 6 a.m. to 3 a.m. the following day — limit on number of permits per year — fee (Kansas City).
- 311.297. Alcohol samples for tasting on and off licensed retail premises, when.
- 311.482. Temporary permit for sale by drink may be issued to certain organizations, when, duration — collection of sales taxes, notice to director of revenue.
- 311.485. Temporary location for liquor by the drink, caterers — permit and fee required — other laws applicable.
- 311.486. Special license, drink at retail for consumption on the premises, when — duration of license — fees.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 311.297, 311.482, 311.485, and 311.486, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 311.087, 311.088, 311.297, 311.482, 311.485, and 311.486, to read as follows:

**311.087. WINE SHOPS, SALE OF INTOXICATING LIQUOR BY THE DRINK LICENSE--WINE SHOP DEFINED--FEE.** — Notwithstanding any other provisions of this chapter to the contrary, any person who possesses the qualifications required by this chapter, and who meets the requirements of and complies with the provisions of this chapter may apply for, and the supervisor of alcohol and tobacco control may issue, a license to sell intoxicating liquor by the drink at retail for consumption on the premises of any wine shop, as defined in this section, between the hours of 10:00 a.m. on Sunday and 10:00 p.m. on Sunday. As used in this section, the term "wine shop" means any establishment that uses automated wine dispensing equipment to dispense wine tastings by the glass at retail for consumption on the premises where sold, so long as at least fifty percent of the total sales of the wine shop are from package sales. In addition to all other fees required by law, an applicant granted a special license under this section shall pay an additional fee of two hundred dollars a year payable at the time and in the same manner as its other license fees.

**311.088. SPECIAL PERMIT FOR SALE OF INTOXICATING LIQUOR BY THE DRINK FROM 6 A.M. TO 3 A.M. THE FOLLOWING DAY — LIMIT ON NUMBER OF PERMITS PER YEAR — FEE (KANSAS CITY).** — Any person possessing the qualifications and meeting the requirements of this chapter who is licensed to sell intoxicating liquor by the drink at retail for consumption on the premises in a home rule city with more than four hundred thousand inhabitants and located in more than one county may be issued a special permit by the state and such city. Notwithstanding the provisions of section 311.089 to the contrary, the special permit issued under this section shall allow the licensed premises to sell intoxicating liquor from 6:00 a.m. until 3:00 a.m. on the morning of the following day within one twenty-four hour period. Any person granted a special permit under this section shall only be authorized to receive up to six such special permits from the city in a calendar year. For every special permit issued under the provisions of this section, the permittee shall pay to the director of the department of revenue the sum of fifty dollars.

**311.297. ALCOHOL SAMPLES FOR TASTING ON AND OFF LICENSED RETAIL PREMISES, WHEN.** — 1. Any winery, distiller, manufacturer, wholesaler, or brewer or designated employee may provide and pour distilled spirits, wine, or malt beverage samples off a licensed retail premises for tasting purposes provided no sales transactions take place. For purposes of this

section, a "sales transaction" shall mean an actual and immediate exchange of monetary consideration for the immediate delivery of goods at the tasting site.

2. Notwithstanding any other provisions of this chapter to the contrary, any winery, distiller, manufacturer, wholesaler, or brewer or designated employee may provide, furnish, or pour distilled spirits, wine, or malt beverage samples for customer tasting purposes on any temporary licensed retail premises as described in section 311.218, 311.482, 311.485, 311.486, or 311.487, or on any tax exempt organization's licensed premises as described in section 311.090.

3. (1) **Notwithstanding any other provisions of this chapter to the contrary, any winery, distiller, manufacturer, wholesaler, or brewer or designated employee may provide or furnish distilled spirits, wine, or malt beverage samples on a licensed retail premises for customer tasting purposes so long as the winery, distiller, manufacturer, wholesaler, or brewer or designated employee has permission from the person holding the retail license. The retail licensed premises where such product tasting is provided shall maintain a special permit in accordance with section 311.294 or hold a by-the-drink-for-consumption-on-the-premises-where-sold retail license. No money or anything of value shall be given to the retailers for the privilege or opportunity of conducting the on-the-premises product tasting.**

(2) Distilled spirits, wine, or malt beverage samples may be dispensed by an employee of the retailer, winery, distiller, manufacturer, or brewer or by a sampling service retained by the retailer, winery, distiller, manufacturer, or brewer. All sampling service employees that provide and pour intoxicating liquor samples on a licensed retail premises shall be required to complete a server training program approved by the division of alcohol and tobacco control.

(3) Any distilled spirits, wine, or malt beverage sample provided by the retailer, winery, distiller, manufacturer, wholesaler, or brewer remaining after the tasting shall be returned to the retailer, winery, distiller, manufacturer, wholesaler, or brewer.

**311.482. TEMPORARY PERMIT FOR SALE BY DRINK MAY BE ISSUED TO CERTAIN ORGANIZATIONS, WHEN, DURATION — COLLECTION OF SALES TAXES, NOTICE TO DIRECTOR OF REVENUE.** — 1. Notwithstanding any other provision of this chapter, a permit for the sale of **all kinds of intoxicating liquor** [as defined in section 311.020], **including intoxicating liquor in the original package, at retail by the drink** for consumption on **the** premises [where sold] **of the licensee** may be issued to any church, school, civic, service, fraternal, veteran, political, or charitable club or organization for the sale of such intoxicating liquor at a picnic, bazaar, fair, or similar gathering. The permit shall be issued only for the day or days named therein and it shall not authorize the sale of intoxicating liquor for more than seven days by any such club or organization.

2. To secure the permit, the applicant shall complete a form provided by the supervisor, but no applicant shall be required to furnish a personal photograph as part of the application. The applicant shall pay a fee of twenty-five dollars for such permit.

3. If the event will be held on a Sunday, the permit shall authorize the sale of intoxicating liquor on that day beginning at 11:00 a.m.

4. At the same time that an applicant applies for a permit under the provisions of this section, the applicant shall notify the director of revenue of the holding of the event and by such notification, by certified mail, shall accept responsibility for the collection and payment of any applicable sales tax. Any sales tax due shall be paid to the director of revenue within fifteen days after the close of the event, and failure to do so shall result in a liability of triple the amount of the tax due plus payment of the tax, and denial of any other permit for a period of three years. Under no circumstances shall a bond be required from the applicant.

5. No provision of law or rule or regulation of the supervisor shall be interpreted as preventing any wholesaler or distributor from providing customary storage, cooling or dispensing equipment for use by the permit holder at such picnic, bazaar, fair or similar gathering.

**311.485. TEMPORARY LOCATION FOR LIQUOR BY THE DRINK, CATERERS — PERMIT AND FEE REQUIRED — OTHER LAWS APPLICABLE.** — 1. The supervisor of liquor control may issue a temporary permit to caterers and other persons holding licenses to sell intoxicating liquor, **including intoxicating liquor in the original package**, by the drink at retail for consumption on the premises pursuant to the provisions of this chapter who furnish provisions and service for use at a particular function, occasion or event at a particular location other than the licensed premises, but not including a festival as defined in chapter 316. The temporary permit shall be effective for a period not to exceed one hundred sixty-eight consecutive hours, and shall authorize the service of alcoholic beverages at such function, occasion or event during the hours at which alcoholic beverages may lawfully be sold or served upon premises licensed to sell alcoholic beverages for on-premises consumption. For every permit issued pursuant to the provisions of this section, the permittee shall pay to the director of revenue the sum of ten dollars for each calendar day, or fraction thereof, for which the permit is issued.

2. Except as provided in subsection 3 of this section, all provisions of the liquor control law and the ordinances, rules and regulations of the incorporated city, or the unincorporated area of any county, in which is located the premises in which such function, occasion or event is held shall extend to such premises and shall be in force and enforceable during all the time that the permittee, its agents, servants, employees, or stock are in such premises. [Except for Missouri-produced wines in the original package, the provisions of this section shall not include the sale of packaged goods covered by this temporary permit.]

3. Notwithstanding any other law to the contrary, any caterer who possesses a valid state and valid local liquor license may deliver alcoholic beverages in the course of his or her catering business. A caterer who possesses a valid state and valid local liquor license need not obtain a separate license for each city the caterer delivers in, so long as such city permits any caterer to deliver alcoholic beverages within the city.

4. To assure and control product quality, wholesalers may, but shall not be required to, give a retailer credit for intoxicating liquor with an alcohol content of less than five percent by weight delivered and invoiced under the catering permit number, but not used, if the wholesaler removes the product within seventy-two hours of the expiration of the catering permit issued pursuant to this section.

**311.486. SPECIAL LICENSE, DRINK AT RETAIL FOR CONSUMPTION ON THE PREMISES, WHEN — DURATION OF LICENSE — FEES.** — 1. The supervisor of alcohol and tobacco control may issue a special license to caterers and other persons holding licenses to sell intoxicating liquor, **including intoxicating liquor in the original package**, by the drink at retail for consumption on the premises pursuant to the provisions of this chapter who furnish provisions and service for use at a particular function, occasion, or event at a particular location other than the licensed premises, but not including a festival as defined in chapter 316. The special license shall be effective for a maximum of fifty days during any year, and shall authorize the service of alcoholic beverages at such function, occasion, or event during the hours at which alcoholic beverages may lawfully be sold or served upon premises licensed to sell alcoholic beverages for on-premises consumption. For every special license issued pursuant to the provisions of this subsection, the licensee shall pay to the director of revenue the sum of five hundred dollars a year payable at the same time and in the same manner as its other license fees.

2. The supervisor of alcohol and tobacco control may issue a special license to caterers and other persons holding licenses to sell intoxicating liquor by the drink at retail for consumption on

the premises pursuant to the provisions of this chapter who furnish provisions and service for use at a particular function, occasion, or event at a particular location other than the licensed premises, but not including a festival as defined in chapter 316. The special license shall be effective for an unlimited number of functions during the year, and shall authorize the service of alcoholic beverages at such function, occasion, or event during the hours at which alcoholic beverages may lawfully be sold or served upon premises licensed to sell alcoholic beverages for on-premises consumption. For every special license issued pursuant to the provisions of this subsection, the licensee shall pay to the director of revenue the sum of one thousand dollars a year payable at the same time and in the same manner as its other license fees.

3. Caterers issued a special license pursuant to subsections 1 and 2 of this section shall report to the supervisor of alcohol and tobacco control the location of each function three business days in advance. The report of each function shall include permission from the property owner and city, description of the premises, and the date or dates the function will be held.

4. Except as provided in subsection 5 of this section, all provisions of the liquor control law and the ordinances, rules and regulations of the incorporated city, or the unincorporated area of any county, in which is located the premises in which such function, occasion, or event is held shall extend to such premises and shall be in force and enforceable during all the time that the licensee, its agents, servants, employees, or stock are in such premises. [Except for wines in the original package, the provisions of this section shall not include the sale of packaged goods covered by this special license.]

5. Notwithstanding any other law to the contrary, any caterer who possesses a valid state and valid local liquor license may deliver alcoholic beverages, in the course of his or her catering business. A caterer who possesses a valid state and valid local liquor license need not obtain a separate license for each city the caterer delivers in, so long as such city permits any caterer to deliver alcoholic beverages within the city.

6. To assure and control product quality, wholesalers may, but shall not be required to, give a retailer credit for intoxicating liquor with an alcohol content of less than five percent by weight delivered and invoiced under the catering license number, but not used, if the wholesaler removes the product within seventy-two hours of the expiration of the catering function.

Approved July 8, 2011

## HB 109 [HB 109]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

### **Repeals the provisions allowing the State Treasurer to invest in any linked deposit for specified purposes only for certain time periods**

AN ACT to repeal sections 30.260, 30.750, 30.758, 30.767, 30.810, and 30.860, RSMo, and to enact in lieu thereof five new sections relating to linked deposits.

#### SECTION

- A. Enacting clause.
- 30.260. Investment policy required — time and demand deposits — investments — interest rates.
- 30.750. Definitions.
- 30.758. Loan package acceptance or rejection — loan agreement requirements — linked deposit at reduced market interest rate, when.
- 30.810. Application of linked deposits law.

- 30.860. Development facilities and renewable fuel production facilities, certificates of qualifications issued, when — factors considered — rulemaking authority.
- 30.767. Expiration of state treasurer's power to invest in linked deposit — exceptions.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 30.260, 30.750, 30.758, 30.767, 30.810, and 30.860, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 30.260, 30.750, 30.758, 30.810, and 30.860, to read as follows:

**30.260. INVESTMENT POLICY REQUIRED — TIME AND DEMAND DEPOSITS — INVESTMENTS — INTEREST RATES.** — 1. The state treasurer shall prepare, maintain and adhere to a written investment policy which shall include an asset allocation plan which limits the total amount of state moneys which may be invested in any particular investment authorized by section 15, article IV of the Missouri Constitution. Such asset allocation plan shall also set diversification limits, as applicable, which shall include a restriction limiting the total amount of time deposits of state moneys, not including linked deposits, placed with any one single banking institution to be no greater than ten percent of all time deposits of state moneys. The state treasurer shall present a copy of such policy to the governor, commissioner of administration, state auditor and general assembly at the commencement of each regular session of the general assembly or at any time the written investment policy is amended.

2. The state treasurer shall determine by the exercise of the treasurer's best judgment the amount of state moneys that are not needed for current operating expenses of the state government and shall keep on demand deposit in banking institutions in this state selected by the treasurer and approved by the governor and state auditor the amount of state moneys which the treasurer has so determined are needed for current operating expenses of the state government and disburse the same as authorized by law.

3. Within the parameters of the state treasurer's written investment policy, the state treasurer shall place the state moneys which the treasurer has determined are not needed for current operations of the state government on time deposit drawing interest in banking institutions in this state selected by the treasurer and approved by the governor and the state auditor, or place them outright or, if applicable, by repurchase agreement in obligations described in section 15, article IV, Constitution of Missouri, as the treasurer in the exercise of the treasurer's best judgment determines to be in the best overall interest of the people of the state of Missouri, giving due consideration to:

- (1) The preservation of such state moneys;
- (2) The benefits to the economy and welfare of the people of Missouri when such state money is invested in banking institutions in this state that, in turn, provide additional loans and investments in the Missouri economy and generate state taxes from such initial investments and the loans and investments created by the banking institutions, compared to the removal or withholding from banking institutions in the state of all or some such state moneys and investing same in obligations authorized in section 15, article IV of the Missouri Constitution;
- (3) The liquidity needs of the state;
- (4) The aggregate return in earnings and taxes on the deposits and the investment to be derived therefrom; and
- (5) All other factors which to the treasurer as a prudent state treasurer seem to be relevant to the general public welfare in the light of the circumstances at the time prevailing. The state treasurer may also place state moneys which are determined not needed for current operations of the state government in linked deposits as provided in sections 30.750 to [30.767] **30.765**.

4. Except for state moneys deposited in linked deposits as provided in sections 30.750 to 30.860, the rate of interest payable by all banking institutions on time deposits of state moneys shall be set under subdivisions (1) to (5) of this subsection and subsections 6 and 7 of this section.

The rate shall never exceed the maximum rate of interest which by federal law or regulation a bank which is a member of the Federal Reserve System may from time to time pay on a time deposit of the same size and maturity. The rate of interest payable by all banking institutions on time deposits of state moneys is as follows:

(1) Beginning January 1, 2010, the rate of interest payable by a banking institution on up to seven million dollars of time deposits of state moneys shall be the same as the average rate paid during the week next preceding the week in which the deposit was made for United States of America treasury securities maturing and becoming payable closest to the time of termination of the deposit, as determined by the state treasurer, adjusted to the nearest one-tenth of a percent. In the case of a banking institution that holds more than seven million dollars of time deposits of state moneys, the rate of interest payable on deposits in excess of seven million dollars of time deposits of state moneys shall be set at the market rate as determined in subsection 6 of this section;

(2) Beginning January 1, 2011, the rate of interest payable by a banking institution on up to five million dollars of time deposits of state moneys shall be the same as the average rate paid during the week next preceding the week in which the deposit was made for United States of America treasury securities maturing and becoming payable closest to the time of termination of the deposit, as determined by the state treasurer, adjusted to the nearest one-tenth of a percent. In the case of a banking institution that holds more than five million dollars of time deposits of state moneys, the rate of interest payable on deposits in excess of five million dollars of time deposits of state moneys shall be set at the market rate as determined in subsection 6 of this section;

(3) Beginning January 1, 2012, the rate of interest payable by a banking institution on up to three million dollars of time deposits of state moneys shall be the same as the average rate paid during the week next preceding the week in which the deposit was made for United States of America treasury securities maturing and becoming payable closest to the time of termination of the deposit, as determined by the state treasurer, adjusted to the nearest one-tenth of a percent. In the case of a banking institution that holds more than three million dollars of time deposits of state moneys, the rate of interest payable on deposits in excess of three million dollars of time deposits of state moneys shall be set at the market rate as determined in subsection 6 of this section;

(4) Beginning January 1, 2013, the rate of interest payable by a banking institution on up to one million dollars of time deposits of state moneys shall be the same as the average rate paid during the week next preceding the week in which the deposit was made for United States of America treasury securities maturing and becoming payable closest to the time of termination of the deposit, as determined by the state treasurer, adjusted to the nearest one-tenth of a percent. In the case of a banking institution that holds more than one million dollars of time deposits of state moneys, the rate of interest payable on deposits in excess of one million dollars of time deposits of state moneys shall be set at the market rate as determined in subsection 6 of this section;

(5) Beginning January 1, 2014, the rate of interest payable by a banking institution on all time deposits of state moneys shall be set at the market rate as determined in subsection 6 of this section.

5. Notwithstanding subdivisions (1) to (5) of subsection 4 of this section, for any new time deposits of state moneys placed after January 1, 2010, with a term longer than eighteen months, the rate of interest payable by a banking institution shall be set at the market rate as determined in subsection 6 of this section.

6. Market rate shall be determined no less frequently than once a month by the director of investments in the office of state treasurer. The process for determining a market rate shall include due consideration of prevailing rates offered for certificates of deposit by well-capitalized Missouri financial institutions, the advance rate established by the Federal Home Loan Bank of Des Moines for member institutions and the costs of collateralization, as well as an evaluation of the credit risk associated with other authorized securities under section 15, article IV, of the Missouri Constitution. Banking institutions may also offer a higher rate than the market rate for any time deposit placed with the state treasurer in excess of the total amount of state moneys set at the

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United States of America treasury securities maturing and becoming payable closest to the time of termination of the deposit indicated in subdivisions (1) to (5) of subsection 4 of this section.

7. Within the parameters of the state treasurer's written investment policy, the state treasurer may subscribe for or purchase outright or by repurchase agreement investments of the character described in subsection 3 of this section which the treasurer, in the exercise of the treasurer's best judgment, believes to be the best for investment of state moneys at the time and in payment therefor may withdraw moneys from any bank account, demand or time, maintained by the treasurer without having any supporting warrant of the commissioner of administration. The state treasurer may bid on subscriptions for such obligations in accordance with the treasurer's best judgment. The state treasurer shall provide for the safekeeping of all such obligations so acquired in the same manner that securities pledged to secure the repayment of state moneys deposited in banking institutions are kept by the treasurer pursuant to law. The state treasurer may hold any such obligation so acquired by the treasurer until its maturity or prior thereto may sell the same outright or by reverse repurchase agreement provided the state's security interest in the underlying security is perfected or temporarily exchange such obligation for cash or other authorized securities of at least equal market value with no maturity more than one year beyond the maturity of any of the traded obligations, for a negotiated fee as the treasurer, in the exercise of the treasurer's best judgment, deems necessary or advisable for the best interest of the people of the state of Missouri in the light of the circumstances at the time prevailing. The state treasurer may pay all costs and expenses reasonably incurred by the treasurer in connection with the subscription, purchase, sale, collection, safekeeping or delivery of all such obligations at any time acquired by the treasurer.

8. As used in this chapter, except as more particularly specified in section 30.270, obligations of the United States shall include securities of the United States Treasury, and United States agencies or instrumentalities as described in section 15, article IV, Constitution of Missouri. The word "temporarily" as used in this section shall mean no more than six months.

**30.750. DEFINITIONS.** — As used in sections 30.750 to [30.767] **30.765**, the following terms mean:

(1) "Eligible agribusiness", a person engaged in the processing or adding of value to agricultural products produced in Missouri;

(2) "Eligible alternative energy consumer", an individual who wishes to borrow moneys for the purchase, installation, or construction of facilities or equipment related to the production of fuel or power primarily for [their] **the individual's** own use from energy sources other than fossil fuels, including but not limited to solar, hydroelectric, wind, and qualified biomass;

(3) "Eligible alternative energy operation", a business enterprise engaged in the production of fuel or power from energy sources other than fossil fuels, including but not limited to solar, hydroelectric, wind, and qualified biomass. Such business enterprise shall conform to the characteristics of paragraphs (a), (b), and (d) of subdivision (6) of this section;

(4) "Eligible beginning farmer":

(a) For any beginning farmer who seeks to participate in the linked deposit program alone, a farmer who:

a. Is a Missouri resident;

b. Wishes to borrow for a farm operation located in Missouri;

c. Is at least eighteen years old; and

d. In the preceding five years has not owned, either directly or indirectly, farm land greater than fifty percent of the average size farm in the county where the proposed farm operation is located or farm land with an appraised value greater than four hundred fifty thousand dollars. A farmer who qualifies as an eligible farmer under this provision may utilize the proceeds of a linked deposit loan to purchase agricultural land, farm buildings, new and used farm equipment, livestock and working capital;

(b) For any beginning farmer who is participating in both the linked deposit program and the beginning farmer loan program administered by the Missouri agriculture and small business development authority, a farmer who:

a. Qualifies under the definition of a beginning farmer utilized for eligibility for federal tax-exempt financing, including the limitations on the use of loan proceeds; and

b. Meets all other requirements established by the Missouri agriculture and small business development authority;

(5) "Eligible facility borrower", a borrower qualified under section 30.860 to apply for a reduced-rate loan under sections 30.750 to [30.767] **30.765**;

(6) "Eligible farming operation", any person engaged in farming in an authorized farm corporation, family farm, or family farm corporation as defined in section 350.010 that has all of the following characteristics:

(a) Is headquartered in this state;

(b) Maintains offices, operating facilities, or farming operations and transacts business in this state;

(c) Employs less than ten employees;

(d) Is organized for profit;

(7) "Eligible governmental entity", any political subdivision of the state seeking to finance capital improvements, capital outlay, or other significant programs through an eligible lending institution;

(8) "Eligible higher education institution", any approved public or private institution as defined in section 173.205;

(9) "Eligible job enhancement business", a new, existing, or expanding firm operating in Missouri, or as a condition of accepting the linked deposit, will locate a facility or office in Missouri associated with said linked deposit, which employs ten or more employees in Missouri on a yearly average and which, as nearly as possible, is able to establish or retain at least one job in Missouri for each fifty thousand dollars received from a linked deposit loan except when the applicant can demonstrate significant costs for equipment, capital outlay, or capital improvements associated with the physical expansion, renovation, or modernization of a facility or equipment. In such cases, the maximum amount of the linked deposit shall not exceed fifty thousand dollars per job created or retained plus the initial cost of the physical expansion, renovation or capital outlay;

(10) "Eligible lending institution", a financial institution that is eligible to make commercial or agricultural or student loans or discount or purchase such loans, is a public depository of state funds or obtains its funds through the issuance of obligations, either directly or through a related entity, eligible for the placement of state funds under the provisions of section 15, article IV, Constitution of Missouri, and agrees to participate in the linked deposit program;

(11) "Eligible livestock operation", any person engaged in production of livestock or poultry in an authorized farm corporation, family farm, or family farm corporation as defined in section 350.010;

(12) "Eligible locally owned business", any person seeking to establish a new firm, partnership, cooperative company, or corporation that shall retain at least fifty-one percent ownership by residents in a county in which the business is headquartered, that consists of the following characteristics:

(a) The county has a median population of twelve thousand five hundred or less; and

(b) The median income of residents in the county are equal to or less than the state median income; or

(c) The unemployment rate of the county is equal to or greater than the state's unemployment rate;

(13) "Eligible marketing enterprise", a business enterprise operating in this state which is in the process of marketing its goods, products or services within or outside of this state or overseas,

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which marketing is designed to increase manufacturing, transportation, mining, communications, or other enterprises in this state, which has proposed its marketing plan and strategy to the department of economic development and which plan and strategy has been approved by the department for purposes of eligibility pursuant to sections 30.750 to [30.767] **30.765**. Such business enterprise shall conform to the characteristics of paragraphs (a), (b) and (d) of subdivision (6) of this section and also employ less than twenty-five employees;

(14) "Eligible multitenant development enterprise", a new enterprise that develops multitenant space for targeted industries as determined by the department of economic development and approved by the department for the purposes of eligibility pursuant to sections 30.750 to [30.767] **30.765**;

(15) "Eligible residential property developer", an individual who purchases and develops a residential structure of either two or four units, if such residential property developer uses and agrees to continue to use, for at least the five years immediately following the date of issuance of the linked deposit loan, one of the units as his principal residence or if such person's principal residence is located within one-half mile from the developed structure and such person agrees to maintain the principal residence within one-half mile of the developed structure for at least the five years immediately following the date of issuance of the linked deposit loan;

(16) "Eligible residential property owner", a person, firm or corporation who purchases, develops or rehabilitates a multifamily residential structure;

(17) "Eligible small business", a person engaged in an activity with the purpose of obtaining, directly or indirectly, a gain, benefit or advantage and which conforms to the characteristics of paragraphs (a), (b) and (d) of subdivision (6) of this section, and also employs less than one hundred employees;

(18) "Eligible student borrower", any person attending, or the parent of a dependent undergraduate attending, an eligible higher education institution in Missouri who may or may not qualify for need-based student financial aid calculated by the federal analysis called Congressional Methodology Formula pursuant to 20 U.S.C. 1078, as amended (the Higher Education Amendments of 1986);

(19) "Eligible water supply system", a water system which serves fewer than fifty thousand persons and which is owned and operated by:

(a) A public water supply district established pursuant to chapter 247; or

(b) A municipality or other political subdivision; or

(c) A water corporation; and which is certified by the department of natural resources in accordance with its rules and regulations to have suffered a significant decrease in its capacity to meet its service needs as a result of drought;

(20) "Farming", using or cultivating land for the production of agricultural crops, livestock or livestock products, forest products, poultry or poultry products, milk or dairy products, or fruit or other horticultural products;

(21) "Linked deposit", a certificate of deposit, or in the case of production credit associations, the subscription or purchase outright of obligations described in section 15, article IV, Constitution of Missouri, placed by the state treasurer with an eligible lending institution at rates otherwise provided by law in section 30.758, provided the institution agrees to lend the value of such deposit, according to the deposit agreement provided in sections 30.750 to [30.767] **30.765**, to eligible multitenant development enterprises, eligible small businesses, eligible alternative energy operations, eligible alternative energy consumers, eligible locally owned businesses, farming operations, eligible job enhancement businesses, eligible marketing enterprises, eligible residential property developers, eligible residential property owners, eligible governmental entities, eligible agribusinesses, eligible beginning farmers, eligible livestock operations, eligible student borrowers, eligible facility borrowers, or eligible water supply systems at below the present borrowing rate applicable to each multitenant development enterprise, small business, alternative energy operation, alternative energy consumer, farming operation, eligible job enhancement business, eligible

marketing enterprise, eligible residential property developer, eligible residential property owner, eligible governmental entity, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, or supply system at the time of the deposit of state funds in the institution;

(22) "Market rate", the interest rate more specifically described in subsection 6 of section 30.260;

(23) "Professional forester", any individual who holds a bachelor of science degree in forestry from a regionally accredited college or university with a minimum of two years of professional forest management experience;

(24) "Qualified biomass", any agriculture-derived organic material or any wood-derived organic material harvested in accordance with a site-specific forest management plan focused on long-term forest sustainability developed by a professional forester and qualified, in consultation with the conservation commission, by the agriculture and small business development authority;

(25) "Water corporation", as such term is defined in section 386.020;

(26) "Water system", as such term is defined in section 386.020.

**30.758. LOAN PACKAGE ACCEPTANCE OR REJECTION — LOAN AGREEMENT REQUIREMENTS — LINKED DEPOSIT AT REDUCED MARKET INTEREST RATE, WHEN. —** 1. The state treasurer may accept or reject a linked deposit loan package or any portion thereof.

2. The state treasurer shall make a good faith effort to ensure that the linked deposits are placed with eligible lending institutions to make linked deposit loans to minority- or female-owned eligible multitenant enterprises, eligible farming operations, eligible alternative energy operations, eligible alternative energy consumers, eligible locally owned businesses, eligible small businesses, eligible job enhancement businesses, eligible marketing enterprises, eligible residential property developers, eligible residential property owners, eligible governmental entities, eligible agribusinesses, eligible beginning farmers, eligible livestock operations, eligible student borrowers, eligible facility borrowers, or eligible water supply systems. Results of such effort shall be included in the linked deposit review committee's annual report to the governor.

3. Upon acceptance of the linked deposit loan package or any portion thereof, the state treasurer may place linked deposits with the eligible lending institution as follows: when market rates are five percent or above, the state treasurer shall reduce the market rate by up to three percentage points to obtain the linked deposit rate; when market rates are less than five percent, the state treasurer shall reduce the market rate by up to sixty percent to obtain the linked deposit rate. All linked deposit rates are determined and calculated by the state treasurer. When necessary, the treasurer may place linked deposits prior to acceptance of a linked deposit loan package.

4. The eligible lending institution shall enter into a deposit agreement with the state treasurer, which shall include requirements necessary to carry out the purposes of sections 30.750 to [30.767] **30.765.** The deposit agreement shall specify the length of time for which the lending institution will lend funds upon receiving a linked deposit, and the original deposit plus renewals shall not exceed five years, except as otherwise provided in this chapter. The agreement shall also include provisions for the linked deposit of a linked deposit for an eligible facility borrower, eligible multitenant enterprise, eligible farming operation, eligible alternative energy operation, eligible alternative energy consumer, eligible locally owned business, eligible small business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible governmental entity, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower or job enhancement business. Interest shall be paid at the times determined by the state treasurer.

5. The period of time for which such linked deposit is placed with an eligible lending institution shall be neither longer nor shorter than the period of time for which the linked deposit is used to provide loans at reduced interest rates. The agreement shall further provide that the state shall receive market interest rates on any linked deposit or any portion thereof for any period of

time for which there is no corresponding linked deposit loan outstanding to an eligible multitenant enterprise, eligible farming operation, eligible alternative energy operation, eligible alternative energy consumer, eligible locally owned business, eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible governmental entity, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water supply system, except as otherwise provided in this subsection. Within thirty days after the annual anniversary date of the linked deposit, the eligible lending institution shall repay the state treasurer any linked deposit principal received from borrowers in the previous yearly period and thereafter repay such principal within thirty days of the yearly anniversary date calculated separately for each linked deposit loan, and repaid at the linked deposit rate. Such principal payment shall be accelerated when more than thirty percent of the linked deposit loan is repaid within a single monthly period. Any principal received and not repaid, up to the point of the thirty percent or more payment, shall be repaid within thirty days of that payment at the linked deposit rate. Finally, when the linked deposit is tied to a revolving line of credit agreement between the banking institution and its borrower, the full amount of the line of credit shall be excluded from the repayment provisions of this subsection.

**30.810. APPLICATION OF LINKED DEPOSITS LAW.** — Except for specific provisions to the contrary in sections 30.800 to 30.850, all definitions, requirements, responsibilities, rights, remedies and other matters set forth in sections 30.750 to [30.767] **30.765** shall apply to linked deposits and linked deposit loans to eligible guaranteed agribusinesses, eligible guaranteed livestock operations, and eligible guaranteed vermiculture operations.

**30.860. DEVELOPMENT FACILITIES AND RENEWABLE FUEL PRODUCTION FACILITIES, CERTIFICATES OF QUALIFICATIONS ISSUED, WHEN — FACTORS CONSIDERED — RULEMAKING AUTHORITY.** — 1. As used in this section, the following terms mean:

- (1) "Agricultural commodity", any agricultural product that has been produced for purpose of sale or exchange, except for animals whose principal use may be construed as recreational or as a pet;
- (2) "Authority", the Missouri agricultural and small business development authority organized under sections 348.005 to 348.180;
- (3) "Borrower", any partnership, corporation, cooperative, or limited liability company organized or incorporated under the laws of this state consisting of not less than twelve members for the purpose of owning or operating within this state a development facility or a renewable fuel production facility in which producer members:
  - (a) Hold a majority of the governance or voting rights of the entity and any governing committee;
  - (b) Control the hiring and firing of management; and
  - (c) Deliver agricultural commodities or products to the entity for processing, unless processing is required by multiple entities;
- (4) "Development facility", a facility producing either a good derived from an agricultural commodity or using a process to produce a good derived from an agricultural product;
- (5) "Eligible facility borrower", a development facility or renewable fuel production facility borrower qualified by the authority under this section to apply for a reduced-rate loan under sections 30.750 to [30.767] **30.765**;
- (6) "Renewable fuel production facility", a facility producing an energy source that is derived from a renewable, domestically grown organic compound capable of powering machinery, including an engine or power plant, and any by-product derived from such energy source.

2. The authority shall accept applications and issue certificates of qualification as an eligible facility borrower to development facilities and renewable fuel production facilities for purposes of

applying for reduced-rate loans under sections 30.750 to [30.767] **30.765** to finance new costs or refinance existing debt associated with such facilities. The authority may charge for each certificate of qualification a one-time fee in an amount not to exceed the actual cost of issuance of the certificate.

3. In determining whether a facility will qualify as an eligible facility borrower, the authority shall consider the following factors:

- (1) The borrower's ability to repay the loan;
- (2) The general economic conditions of the area in which the agricultural property will be or is located;
- (3) The prospect of success of the particular project for which the loan is sought; and
- (4) Such other factors as the authority may establish by rule.

4. No reduced rate loan made to an eligible facility borrower under sections 30.750 to [30.767] **30.765** shall:

- (1) Exceed seventy million dollars for any single eligible facility borrower;
- (2) Exceed seventy percent of the total anticipated cost of the development facility or renewable fuel production facility or, in the case of refinancing existing debt, ninety percent of the fair market value of the development facility or renewable fuel production facility;
- (3) Exceed a loan term of five years, except that such loan may be extended up to two additional loan periods of five years each for a maximum total loan term of fifteen years; and
- (4) When a banking institution or an eligible lending institution extends credit under the provisions of this section and provides the lead in underwriting the credit, it may enter into a participation agreement, sell part of the loan to third parties, syndicate the loan, or make other written arrangement with financial intermediaries, provided that at all times any financial intermediary, participant, purchaser, or other party obtaining a legal or equitable interest in the loan otherwise qualifies for linked deposit loans and fully collateralizes those loans as required by this chapter.

5. The state treasurer may contract with other parties as permitted in section 30.286 and consult with the authority to implement this section. However, the state treasurer shall make the final determination on the placement of linked deposits of state funds in banking institutions or eligible lending institutions as permitted by the constitution.

6. The state treasurer shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

7. The provisions of sections 23.250 to 23.298 shall not apply to the provisions of this section.

**[30.767. EXPIRATION OF STATE TREASURER'S POWER TO INVEST IN LINKED DEPOSIT — EXCEPTIONS.** — The state treasurer shall not, after December 31, 2015, invest in any linked deposit the value of which is to be lent to a recipient other than an eligible water supply system or an eligible student borrower. The state treasurer shall not, after January 1, 2020, invest in any linked deposit, the value of which is to be lent

to any new eligible facility borrower. However, such restriction shall not apply to any extensions of existing loans as provided for in section 30.860.]

Approved June 22, 2011

## HB 111 [SS#2 SCS HCS HB 111]

**EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.**

### **Changes the laws regarding judicial procedures**

AN ACT to repeal sections 144.032, 302.020, 302.321, 303.025, 311.325, 351.340, 452.340, 475.060, 475.061, 475.115, 477.650, 484.350, 523.040, 544.455, 544.470, 557.011, 566.086, 566.147, 568.040, 570.080, 578.150, and 589.040, RSMo, and to enact in lieu thereof fifty-three new sections relating to the judiciary, with penalty provisions, and an emergency clause for certain sections.

#### SECTION

- A. Enacting clause.
- 34.376. Citation of act — definitions.
- 34.378. Contingent fee contracts, limitations — written proposals, when — standard addendum — posting of contracts on website — record-keeping requirements — report, contents.
- 34.380. Contractual authority not expanded.
- 144.032. Cities or counties may impose sales tax on utilities — determination of domestic use.
- 205.205. Hospital district sales tax authorized (Iron and Madison counties) — approval by voters — fund created, use of moneys — repeal of tax, procedure.
- 221.025. Electronic monitoring permitted, when — credit of time against period of confinement.
- 302.020. Operation of motor vehicle without proper license prohibited, penalty — motorcycles — special license — protective headgear, failure to wear, fine, amount — no points to be assessed.
- 302.321. Driving while license or driving privilege is canceled, suspended or revoked, penalty — enhanced penalty for repeat offenders — imprisonment, mandatory, exception.
- 303.025. Duty to maintain financial responsibility, residents and nonresidents, misdemeanor penalty for failure to maintain — exception, methods — court to notify department of revenue, additional punishment, right of appeal.
- 311.325. Purchase or possession by minor, a misdemeanor — container need not be opened and contents verified, when — consent to chemical testing deemed given, when — burden of proof on violator to prove not intoxicating liquor — section not applicable to certain students, requirements.
- 351.340. Board meetings, where and how held.
- 452.340. Child support, how allocated — factors to be considered — abatement or termination of support, when — support after age eighteen, when — public policy of state — payments may be made directly to child, when — child support guidelines, rebuttable presumption, use of guidelines, when — retroactivity — obligation terminated, how.
- 455.007. Mootness doctrine, public interest exception to apply, when.
- 475.060. Application for guardianship — petition for guardianship requirements — incapacitated persons, petition requirements.
- 475.061. Application for conservatorship — may combine with petition for guardian of person.
- 475.115. Appointment of successor guardian or conservator — transfer of case, procedure.
- 475.501. Short title.
- 475.502. Definitions.
- 475.503. International application of act.
- 475.504. Communication between courts.
- 475.505. Cooperation between courts.
- 475.506. Taking testimony in another state.
- 475.521. Definitions — significant connection factors.
- 475.522. Exclusive basis.
- 475.523. Jurisdiction.
- 475.524. Special jurisdiction.
- 475.525. Exclusive and continuing jurisdiction.
- 475.526. Appropriate forum.
- 475.527. Jurisdiction declined by reason of conduct.

- 475.528. Notice of proceeding.
- 475.529. Proceedings in more than one state.
- 475.531. Transfer of guardianship or conservatorship to another state.
- 475.532. Accepting guardianship or conservatorship transferred from another state.
- 475.541. Registration of guardianship orders.
- 475.542. Registration of protective orders.
- 475.543. Effect of registration.
- 475.544. State law applicability.
- 475.551. Uniformity of application and construction.
- 475.552. Relation to Electronic Signatures in Global and National Commerce Act.
- 475.555. Effective date.
- 477.650. Basic civil legal services fund created, moneys to be used to increase funding for legal services to eligible low-income persons — allocation of moneys — record-keeping requirements — report to general assembly — expiration date.
- 484.350. Standards for representation to be updated and adopted statewide, when.
- 523.040. Appointment of commissioners — duties — notice of property viewing.
- 544.455. Release of person charged, when — conditions which may be imposed.
- 544.470. Commitment of individual, when — presumption for aliens unlawfully present.
- 557.011. Authorized dispositions.
- 566.086. Sexual contact with a student.
- 566.147. Certain offenders not to reside within one thousand feet of a school or child-care facility.
- 568.040. Criminal nonsupport, penalty — payment of support as a condition of parole — prosecuting attorneys to report cases to family support division.
- 570.080. Receiving stolen property.
- 578.150. Failure to return rented personal property — evidence of intent to violate, when — law enforcement procedure — penalty — venue — exception.
- 589.040. Duties of department of corrections — certain inmates to participate in programs.
- 632.312. Transportation costs, sheriff may be reimbursed.
  - B. Emergency clause.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 144.032, 302.020, 302.321, 303.025, 311.325, 351.340, 452.340, 475.060, 475.061, 475.115, 477.650, 484.350, 523.040, 544.455, 544.470, 557.011, 566.086, 566.147, 568.040, 570.080, 578.150, and 589.040, RSMo, are repealed and fifty-three new sections enacted in lieu thereof, to be known as sections 34.376, 34.378, 34.380, 144.032, 205.205, 221.025, 302.020, 302.321, 303.025, 311.325, 351.340, 452.340, 455.007, 475.060, 475.061, 475.115, 475.501, 475.502, 475.503, 475.504, 475.505, 475.506, 475.521, 475.522, 475.523, 475.524, 475.525, 475.526, 475.527, 475.528, 475.529, 475.531, 475.532, 475.541, 475.542, 475.543, 475.544, 475.551, 475.552, 475.555, 477.650, 484.350, 523.040, 544.455, 544.470, 557.011, 566.086, 566.147, 568.040, 570.080, 578.150, 589.040, and 632.312, to read as follows:

**34.376. CITATION OF ACT — DEFINITIONS. — 1.** Sections 34.376 to 34.380 may be known as the "Transparency in Private Attorney Contracts Act".

**2.** As used in sections 34.376 to 34.380, the following terms shall mean:

- (1) "Government attorney", an attorney employed by the state as an assistant attorney general;
- (2) "Private attorney", any private attorney or law firm;
- (3) "State", the state of Missouri, in any action instituted by the attorney general pursuant to section 27.060.

**34.378. CONTINGENT FEE CONTRACTS, LIMITATIONS — WRITTEN PROPOSALS, WHEN — STANDARD ADDENDUM — POSTING OF CONTRACTS ON WEBSITE — RECORD-KEEPING REQUIREMENTS — REPORT, CONTENTS. — 1.** The state shall not enter into a contingency fee contract with a private attorney unless the attorney general makes a written determination prior to entering into such a contract that contingency fee representation is



both cost-effective and in the public interest. Any written determination shall include specific findings for each of the following factors:

- (1) Whether there exists sufficient and appropriate legal and financial resources within the attorney general's office to handle the matter;
- (2) The time and labor required; the novelty, complexity, and difficulty of the questions involved; and the skill requisite to perform the attorney services properly;
- (3) The geographic area where the attorney services are to be provided; and
- (4) The amount of experience desired for the particular kind of attorney services to be provided and the nature of the private attorney's experience with similar issues or cases.

2. If the attorney general makes the determination described in subsection 1 of this section, the attorney general shall request written proposals from private attorneys to represent the state, unless the attorney general determines that requesting proposals is not feasible under the circumstances and sets forth the basis for this determination in writing. If a request for proposals is issued, the attorney general shall choose the lowest and best bid or request the office of administration establish an independent panel to evaluate the proposals and choose the lowest and best bid.

3. The state shall not enter into a contract for contingency fee attorney services unless the following requirements are met throughout the contract period and any extensions to the contract:

- (1) The government attorneys shall retain complete control over the course and conduct of the case;
- (2) A government attorney with supervisory authority shall oversee the litigation;
- (3) The government attorneys shall retain veto power over any decisions made by outside counsel;
- (4) A government attorney with supervisory authority for the case shall attend all settlement conferences; and
- (5) Decisions regarding settlement of the case shall be reserved exclusively to the discretion of the attorney general.

4. The attorney general shall develop a standard addendum to every contract for contingent fee attorney services that shall be used in all cases, describing in detail what is expected of both the contracted private attorney and the state, including, without limitation, the requirements listed in subsection 4 of this section.

5. Copies of any executed contingency fee contract and the attorney general's written determination to enter into a contingency fee contract with the private attorney shall be posted on the attorney general's website for public inspection within five business days after the date the contract is executed and shall remain posted on the website for the duration of the contingency fee contract, including any extensions or amendments to the contract. Any payment of contingency fees shall be posted on the attorney general's website within fifteen days after the payment of such contingency fees to the private attorney and shall remain posted on the website for at least three hundred sixty-five days.

6. Any private attorney under contract to provide services to the state on a contingency fee basis shall, from the inception of the contract until at least four years after the contract expires or is terminated, maintain detailed current records, including documentation of all expenses, disbursements, charges, credits, underlying receipts and invoices, and other financial transactions that concern the provision of such attorney services. The private attorney shall maintain detailed contemporaneous time records for the attorneys and paralegals working on the matter in increments of no greater than one tenth of an hour and shall promptly provide these records to the attorney general, upon request. Any request under chapter 610 for inspection and copying of such records shall be served upon and responded to by the attorney general's office.

7. By February first of each year, the attorney general shall submit a report to the president pro tem of the senate and the speaker of the house of representatives describing the use of contingency fee contracts with private attorneys in the preceding calendar year. At a minimum, the report shall:

(1) Identify all new contingency fee contracts entered into during the year and all previously executed contingency fee contracts that remain current during any part of the year, and for each contract describe:

(a) The name of the private attorney with whom the department has contracted, including the name of the attorney's law firm;

(b) The nature and status of the legal matter;

(c) The name of the parties to the legal matter;

(d) The amount of any recovery; and

(e) The amount of any contingency fee paid.

(2) Include copies of any written determinations made under subsections 1 and 2 of this section.

**34.380. CONTRACTUAL AUTHORITY NOT EXPANDED.** — Nothing in sections 34.376 to 34.380 shall be construed to expand the authority of any state agency or state agent to enter into contracts where no such authority previously existed.

**144.032. CITIES OR COUNTIES MAY IMPOSE SALES TAX ON UTILITIES — DETERMINATION OF DOMESTIC USE.** — The provisions of section 144.030 to the contrary notwithstanding, any city imposing a sales tax under the provisions of sections 94.500 to 94.570, or any county imposing a sales tax under the provisions of sections 66.600 to 66.635, or any county imposing a sales tax under the provisions of sections 67.500 to 67.729, **or any hospital district imposing a sales tax under the provisions of section 205.205**, may by ordinance impose a sales tax upon all sales of metered water services, electricity, electrical current and natural, artificial or propane gas, wood, coal, or home heating oil for domestic use only. Such tax shall be administered by the department of revenue and assessed by the retailer in the same manner as any other city [or] , county, **or hospital district** sales tax. Domestic use shall be determined in the same manner as the determination of domestic use for exemption of such sales from the state sales tax under the provisions of section 144.030.

**205.205. HOSPITAL DISTRICT SALES TAX AUTHORIZED (IRON AND MADISON COUNTIES) — APPROVAL BY VOTERS — FUND CREATED, USE OF MONEYS — REPEAL OF TAX, PROCEDURE.** — 1. The governing body of any hospital district established under sections 205.160 to 205.379 in any county of the third classification without a township form of government and with more than ten thousand six hundred but fewer than ten thousand seven hundred inhabitants may, by resolution, abolish the property tax authorized in such district under this chapter and impose a sales tax on all retail sales made within the district which are subject to sales tax under chapter 144 and all sales of metered water services, electricity, electrical current and natural, artificial or propane gas, wood, coal, or home heating oil for domestic use only as provided under section 144.032. The tax authorized in this section shall be not more than one percent, and shall be imposed solely for the purpose of funding the hospital district. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes.

2. No such resolution adopted under this section shall become effective unless the governing body of the hospital district submits to the voters residing within the district at a state general, primary, or special election a proposal to authorize the governing body of the district to impose a tax under this section. If a majority of the votes cast on the

question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter after the director of revenue receives notification of adoption of the local sales tax. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question.

3. All revenue collected under this section by the director of the department of revenue on behalf of the hospital district, except for one percent for the cost of collection which shall be deposited in the state's general revenue fund, shall be deposited in a special trust fund, which is hereby created and shall be known as the "Hospital District Sales Tax Fund", and shall be used solely for the designated purposes. Moneys in the fund shall not be deemed to be state funds, and shall not be commingled with any funds of the state. The director may make refunds from the amounts in the fund and credited to the district for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such district. Any funds in the special fund which are not needed for current expenditures shall be invested in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. The governing body of any hospital district that has adopted the sales tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the district. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

5. Whenever the governing body of any hospital district that has adopted the sales tax authorized in this section receives a petition, signed by a number of registered voters of the district equal to at least ten percent of the number of registered voters of the district voting in the last gubernatorial election, calling for an election to repeal the sales tax imposed under this section, the governing body shall submit to the voters of the district a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, the repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

6. If the tax is repealed or terminated by any means, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes, and the hospital district shall notify the director of the department of revenue of the action at least ninety days before the effective date of the repeal and the director may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such district, the director shall remit the balance in the account to the district and close the account of that district. The director shall notify each district of each instance of any amount refunded or any check redeemed from receipts due the district.

**221.025. ELECTRONIC MONITORING PERMITTED, WHEN — CREDIT OF TIME AGAINST PERIOD OF CONFINEMENT. — 1.** As an alternative to confinement, an individual may be placed on electronic monitoring pursuant to subsection 1 of section 544.455 or subsection 6 of section 557.011, with such terms and conditions as a court shall deem just and appropriate under the circumstances.

2. A judge may, in his or her discretion, credit any such period of electronic monitoring against any period of confinement or incarceration ordered, however, electronic monitoring shall not be considered to be in custody or incarceration for purposes of eligibility for the MO HealthNet program, nor shall it be considered confinement in a correctional center or private or county jail for purposes of determining responsibility for the individual's health care.

3. This section shall not authorize a court to place an individual on electronic monitoring in lieu of the required imprisonment, community service, or court ordered treatment program involving community service, if that individual is a prior, persistent, aggravated, or chronic offender sentenced pursuant to section 577.023.

**302.020. OPERATION OF MOTOR VEHICLE WITHOUT PROPER LICENSE PROHIBITED, PENALTY — MOTORCYCLES — SPECIAL LICENSE — PROTECTIVE HEADGEAR, FAILURE TO WEAR, FINE, AMOUNT — NO POINTS TO BE ASSESSED. — 1.** Unless otherwise provided for by law, it shall be unlawful for any person, except those expressly exempted by section 302.080, to:

(1) Operate any vehicle upon any highway in this state unless the person has a valid license;

(2) Operate a motorcycle or motortricycle upon any highway of this state unless such person has a valid license that shows the person has successfully passed an examination for the operation of a motorcycle or motortricycle as prescribed by the director. The director may indicate such upon a valid license issued to such person, or shall issue a license restricting the applicant to the operation of a motorcycle or motortricycle if the actual demonstration, required by section 302.173, is conducted on such vehicle;

(3) Authorize or knowingly permit a motorcycle or motortricycle owned by such person or under such person's control to be driven upon any highway by any person whose license does not indicate that the person has passed the examination for the operation of a motorcycle or motortricycle or has been issued an instruction permit therefor;

(4) Operate a motor vehicle with an instruction permit or license issued to another person.

2. Every person operating or riding as a passenger on any motorcycle or motortricycle, as defined in section 301.010, upon any highway of this state shall wear protective headgear at all times the vehicle is in motion. The protective headgear shall meet reasonable standards and specifications established by the director.

3. Notwithstanding the provisions of section 302.340 any person convicted of violating subdivision (1) or (2) of subsection 1 of this section is guilty of a [class A] misdemeanor. **A first violation of subdivision (1) or (2) of subsection 1 of this section shall be punishable by a fine not to exceed three hundred dollars. A second violation of subdivision (1) or (2) of subsection 1 of this section shall be punishable by imprisonment in the county jail for a term not to exceed one year and/or a fine not to exceed one thousand dollars.** Any person convicted a third or subsequent time of violating subdivision (1) or (2) of subsection 1 of this section is guilty of a class D felony. Notwithstanding the provisions of section 302.340, violation of subdivisions (3) and (4) of subsection 1 of this section is a [class C] misdemeanor, **the first violation punishable by a fine not to exceed three hundred dollars, a second or subsequent violation of this section punishable as a class C misdemeanor,** and the penalty for failure to wear protective headgear as required by subsection 2 of this section is an infraction for which a fine not to exceed twenty-five dollars may be imposed.

Notwithstanding all other provisions of law and court rules to the contrary, no court costs shall be imposed upon any person due to such violation. No points shall be assessed pursuant to section 302.302 for a failure to wear such protective headgear. **Prior pleas of guilty and prior findings of guilty shall be pleaded and proven in the same manner as required by section 558.021.**

**302.321. DRIVING WHILE LICENSE OR DRIVING PRIVILEGE IS CANCELED, SUSPENDED OR REVOKED, PENALTY — ENHANCED PENALTY FOR REPEAT OFFENDERS — IMPRISONMENT, MANDATORY, EXCEPTION.** — 1. A person commits the crime of driving while revoked if such person operates a motor vehicle on a highway when such person's license or driving privilege has been canceled, suspended, or revoked under the laws of this state or any other state and acts with criminal negligence with respect to knowledge of the fact that such person's driving privilege has been canceled, suspended, or revoked.

2. Any person convicted of driving while revoked is guilty of a [class A] misdemeanor. **A first violation of this section shall be punishable by a fine not to exceed three hundred dollars. A second or third violation of this section shall be punishable by imprisonment in the county jail for a term not to exceed one year and/or a fine not to exceed one thousand dollars.** Any person with no prior alcohol-related enforcement contacts as defined in section 302.525, convicted a fourth or subsequent time of driving while revoked or a county or municipal ordinance of driving while suspended or revoked where the defendant was represented by or waived the right to an attorney in writing, and where the prior three driving-while-revoked offenses occurred within ten years of the date of occurrence of the present offense; and any person with a prior alcohol-related enforcement contact as defined in section 302.525, convicted a third or subsequent time of driving while revoked or a county or municipal ordinance of driving while suspended or revoked where the defendant was represented by or waived the right to an attorney in writing, and where the prior two driving-while-revoked offenses occurred within ten years of the date of occurrence of the present offense and where the person received and served a sentence of ten days or more on such previous offenses is guilty of a class D felony. **Except upon conviction as a first offense,** no court shall suspend the imposition of sentence as to such a person nor sentence such person to pay a fine in lieu of a term of imprisonment, nor shall such person be eligible for parole or probation until such person has served a minimum of forty-eight consecutive hours of imprisonment, unless as a condition of such parole or probation, such person performs at least ten days involving at least forty hours of community service under the supervision of the court in those jurisdictions which have a recognized program for community service. Driving while revoked is a class D felony on the second or subsequent conviction pursuant to section 577.010 or a fourth or subsequent conviction for any other offense. **Prior pleas of guilty and prior findings of guilty shall be pleaded and proven in the same manner as required by section 558.021.**

**303.025. DUTY TO MAINTAIN FINANCIAL RESPONSIBILITY, RESIDENTS AND NONRESIDENTS, MISDEMEANOR PENALTY FOR FAILURE TO MAINTAIN — EXCEPTION, METHODS — COURT TO NOTIFY DEPARTMENT OF REVENUE, ADDITIONAL PUNISHMENT, RIGHT OF APPEAL.** — 1. No owner of a motor vehicle registered in this state, or required to be registered in this state, shall operate, register or maintain registration of a motor vehicle, or permit another person to operate such vehicle, unless the owner maintains the financial responsibility which conforms to the requirements of the laws of this state. No nonresident shall operate or permit another person to operate in this state a motor vehicle registered to such nonresident unless the nonresident maintains the financial responsibility which conforms to the requirements of the laws of the nonresident's state of residence. Furthermore, no person shall operate a motor vehicle owned by another with the knowledge that the owner has not maintained financial responsibility unless such person has financial responsibility which covers the person's operation of the other's vehicle; however, no owner or nonresident shall be in violation of this subsection if he or she fails

to maintain financial responsibility on a motor vehicle which is inoperable or being stored and not in operation. The director may prescribe rules and regulations for the implementation of this section.

2. A motor vehicle owner shall maintain the owner's financial responsibility in a manner provided for in section 303.160, or with a motor vehicle liability policy which conforms to the requirements of the laws of this state. A nonresident motor vehicle owner shall maintain the owner's financial responsibility which conforms to the requirements of the laws of the nonresident's state of residence.

3. Any person who violates this section is guilty of a [class C] misdemeanor. **A first violation of this section shall be punishable by a fine not to exceed three hundred dollars. A second or subsequent violation of this section shall be punishable by imprisonment in the county jail for a term not to exceed fifteen days and/or a fine not to exceed three hundred dollars. Prior pleas of guilty and prior findings of guilty shall be pleaded and proven in the same manner as required by section 558.021.** However, no person shall be found guilty of violating this section if the operator demonstrates to the court that he or she met the financial responsibility requirements of this section at the time the peace officer, commercial vehicle enforcement officer or commercial vehicle inspector wrote the citation. In addition to any other authorized punishment, the court shall notify the director of revenue of any person convicted pursuant to this section and shall do one of the following:

(1) Enter an order suspending the driving privilege as of the date of the court order. If the court orders the suspension of the driving privilege, the court shall require the defendant to surrender to it any driver's license then held by such person. The length of the suspension shall be as prescribed in subsection 2 of section 303.042. The court shall forward to the director of revenue the order of suspension of driving privilege and any license surrendered within ten days;

(2) Forward the record of the conviction for an assessment of four points;

(3) In lieu of an assessment of points, render an order of supervision as provided in section 302.303. An order of supervision shall not be used in lieu of points more than one time in any thirty-six-month period. Every court having jurisdiction pursuant to the provisions of this section shall forward a record of conviction to the Missouri state highway patrol, or at the written direction of the Missouri state highway patrol, to the department of revenue, in a manner approved by the director of the department of public safety. The director shall establish procedures for the record keeping and administration of this section; or

(4) For a nonresident, suspend the nonresident's driving privileges in this state in accordance with section 303.030 and notify the official in charge of the issuance of licenses and registration certificates in the state in which such nonresident resides in accordance with section 303.080.

4. Nothing in sections 303.010 to 303.050, 303.060, 303.140, 303.220, 303.290, 303.330 and 303.370 shall be construed as prohibiting the department of insurance, financial institutions and professional registration from approving or authorizing those exclusions and limitations which are contained in automobile liability insurance policies and the uninsured motorist provisions of automobile liability insurance policies.

5. If a court enters an order of suspension, the offender may appeal such order directly pursuant to chapter 512 and the provisions of section 302.311 shall not apply.

**311.325. PURCHASE OR POSSESSION BY MINOR, A MISDEMEANOR — CONTAINER NEED NOT BE OPENED AND CONTENTS VERIFIED, WHEN — CONSENT TO CHEMICAL TESTING DEEMED GIVEN, WHEN — BURDEN OF PROOF ON VIOLATOR TO PROVE NOT INTOXICATING LIQUOR — SECTION NOT APPLICABLE TO CERTAIN STUDENTS, REQUIREMENTS. —** 1. Any person under the age of twenty-one years, who purchases or attempts to purchase, or has in his or her possession, any intoxicating liquor as defined in section 311.020 or who is visibly in an intoxicated condition as defined in section 577.001, or has a detectable blood alcohol content of more than two-hundredths of one percent or more by weight of alcohol in such person's blood is guilty of a misdemeanor. **A first violation of this section shall be punishable by a fine not to**

exceed three hundred dollars. A second or subsequent violation of this section shall be punishable by imprisonment in the county jail for a term not to exceed one year and/or a fine not to exceed one thousand dollars. Prior pleas of guilty and prior findings of guilty shall be pleaded and proven in the same manner as required by section 558.021. For purposes of prosecution under this section or any other provision of this chapter involving an alleged illegal sale or transfer of intoxicating liquor to a person under twenty-one years of age, a manufacturer-sealed container describing that there is intoxicating liquor therein need not be opened or the contents therein tested to verify that there is intoxicating liquor in such container. The alleged violator may allege that there was not intoxicating liquor in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is intoxicating liquor therein contains intoxicating liquor.

2. For purposes of determining violations of any provision of this chapter, or of any rule or regulation of the supervisor of alcohol and tobacco control, a manufacturer-sealed container describing that there is intoxicating liquor therein need not be opened or the contents therein tested to verify that there is intoxicating liquor in such container. The alleged violator may allege that there was not intoxicating liquor in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is intoxicating liquor therein contains intoxicating liquor.

3. Any person under the age of twenty-one years who purchases or attempts to purchase, or has in his or her possession, any intoxicating liquor, or who is visibly in an intoxicated condition as defined in section 577.001, shall be deemed to have given consent to a chemical test or tests of the person's breath, blood, saliva, or urine for the purpose of determining the alcohol or drug content of the person's blood. The implied consent to submit to the chemical tests listed in this subsection shall be limited to not more than two such tests arising from the same arrest, incident, or charge. Chemical analysis of the person's breath, blood, saliva, or urine shall be performed according to methods approved by the state department of health and senior services by licensed medical personnel or by a person possessing a valid permit issued by the state department of health and senior services for this purpose. The state department of health and senior services shall approve satisfactory techniques, devices, equipment, or methods to be considered valid and shall establish standards to ascertain the qualifications and competence of individuals to conduct analyses and to issue permits which shall be subject to termination or revocation by the state department of health and senior services. The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person at the choosing and expense of the person to be tested, administer a test in addition to any administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test taken at the direction of a law enforcement officer. Upon the request of the person who is tested, full information concerning the test shall be made available to such person. Full information is limited to the following:

- (1) The type of test administered and the procedures followed;
- (2) The time of the collection of the blood or breath sample or urine analyzed;
- (3) The numerical results of the test indicating the alcohol content of the blood and breath and urine;
- (4) The type and status of any permit which was held by the person who performed the test;
- (5) If the test was administered by means of a breath-testing instrument, the date of performance of the most recent required maintenance of such instrument. Full information does not include manuals, schematics, or software of the instrument used to test the person or any other material that is not in the actual possession of the state. Additionally, full information does not include information in the possession of the manufacturer of the test instrument.

4. The provisions of this section shall not apply to a student who:

- (1) Is eighteen years of age or older;
- (2) Is enrolled in an accredited college or university and is a student in a culinary course;

(3) Is required to taste, but not consume or imbibe, any beer, ale, porter, wine, or other similar malt or fermented beverage as part of the required curriculum; and

(4) Tastes a beverage under subdivision (3) of this subsection only for instructional purposes during classes that are part of the curriculum of the accredited college or university. The beverage must at all times remain in the possession and control of an authorized instructor of the college or university, who must be twenty-one years of age or older. Nothing in this subsection may be construed to allow a student under the age of twenty-one to receive any beer, ale, porter, wine, or other similar malt or fermented beverage unless the beverage is delivered as part of the student's required curriculum and the beverage is used only for instructional purposes during classes conducted as part of the curriculum.

**351.340. BOARD MEETINGS, WHERE AND HOW HELD.** — 1. Regular meetings of the board of directors may be held with or without notice as the bylaws may prescribe. Special meetings of the board of directors shall be held upon such notice as the bylaws may prescribe. Attendance of a director at any meeting shall constitute a waiver of notice of the meeting except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular meeting of the board of directors need be specified in the notice or waiver of notice of the meeting.

2. Any action which is required to be or may be taken at a meeting of the directors, or of the executive committee or any other committee of the directors, may be taken without a meeting if [consents in writing], setting forth the action so taken, [are signed by] all of the members of the board or of the committee as the case may be, **consent thereto in writing or by electronic transmission**. The consents shall have the same force and effect as a unanimous vote at a meeting duly held, and may be stated as such in any certificate or document filed under this chapter. The secretary shall file the [consents] **writing or writings or electronic transmission or transmissions** with the minutes of the meetings of the board of directors or of the committee as the case may be. **Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form. "Electronic transmission" for purposes of this section shall be as defined in subdivision (2) of subsection 5 of section 351.245.**

**452.340. CHILD SUPPORT, HOW ALLOCATED — FACTORS TO BE CONSIDERED — ABATEMENT OR TERMINATION OF SUPPORT, WHEN — SUPPORT AFTER AGE EIGHTEEN, WHEN — PUBLIC POLICY OF STATE — PAYMENTS MAY BE MADE DIRECTLY TO CHILD, WHEN — CHILD SUPPORT GUIDELINES, REBUTTABLE PRESUMPTION, USE OF GUIDELINES, WHEN — RETROACTIVITY — OBLIGATION TERMINATED, HOW.** — 1. In a proceeding for dissolution of marriage, legal separation or child support, the court may order either or both parents owing a duty of support to a child of the marriage to pay an amount reasonable or necessary for the support of the child, including an award retroactive to the date of filing the petition, without regard to marital misconduct, after considering all relevant factors including:

- (1) The financial needs and resources of the child;
- (2) The financial resources and needs of the parents;
- (3) The standard of living the child would have enjoyed had the marriage not been dissolved;
- (4) The physical and emotional condition of the child, and the child's educational needs;
- (5) The child's physical and legal custody arrangements, including the amount of time the child spends with each parent and the reasonable expenses associated with the custody or visitation arrangements; and
- (6) The reasonable work-related child care expenses of each parent.



2. The obligation of the parent ordered to make support payments shall abate, in whole or in part, for such periods of time in excess of thirty consecutive days that the other parent has voluntarily relinquished physical custody of a child to the parent ordered to pay child support, notwithstanding any periods of visitation or temporary physical and legal or physical or legal custody pursuant to a judgment of dissolution or legal separation or any modification thereof. In a IV-D case, the family support division may determine the amount of the abatement pursuant to this subsection for any child support order and shall record the amount of abatement in the automated child support system record established pursuant to chapter 454. If the case is not a IV-D case and upon court order, the circuit clerk shall record the amount of abatement in the automated child support system record established in chapter 454.

3. Unless the circumstances of the child manifestly dictate otherwise and the court specifically so provides, the obligation of a parent to make child support payments shall terminate when the child:

- (1) Dies;
- (2) Marries;
- (3) Enters active duty in the military;
- (4) Becomes self-supporting, provided that the custodial parent has relinquished the child from parental control by express or implied consent;
- (5) Reaches age eighteen, unless the provisions of subsection 4 or 5 of this section apply; or
- (6) Reaches age twenty-one, unless the provisions of the child support order specifically extend the parental support order past the child's twenty-first birthday for reasons provided by subsection 4 of this section.

4. If the child is physically or mentally incapacitated from supporting himself and insolvent and unmarried, the court may extend the parental support obligation past the child's eighteenth birthday.

5. If when a child reaches age eighteen, the child is enrolled in and attending a secondary school program of instruction, the parental support obligation shall continue, if the child continues to attend and progresses toward completion of said program, until the child completes such program or reaches age twenty-one, whichever first occurs. If the child is enrolled in an institution of vocational or higher education not later than October first following graduation from a secondary school or completion of a graduation equivalence degree program and so long as the child enrolls for and completes at least twelve hours of credit each semester, not including the summer semester, at an institution of vocational or higher education and achieves grades sufficient to reenroll at such institution, the parental support obligation shall continue until the child completes his or her education, or until the child reaches the age of twenty-one, whichever first occurs. To remain eligible for such continued parental support, at the beginning of each semester the child shall submit to each parent a transcript or similar official document provided by the institution of vocational or higher education which includes the courses the child is enrolled in and has completed for each term, the grades and credits received for each such course, and an official document from the institution listing the courses which the child is enrolled in for the upcoming term and the number of credits for each such course. When enrolled in at least twelve credit hours, if the child receives failing grades in half or more of his or her courseload in any one semester, payment of child support may be terminated and shall not be eligible for reinstatement. Upon request for notification of the child's grades by the noncustodial parent, the child shall produce the required documents to the noncustodial parent within thirty days of receipt of grades from the education institution. If the child fails to produce the required documents, payment of child support may terminate without the accrual of any child support arrearage and shall not be eligible for reinstatement. If the circumstances of the child manifestly dictate, the court may waive the October first deadline for enrollment required by this subsection. If the child is enrolled in such an institution, the child or parent obligated to pay support may petition the court to amend the order to direct the obligated parent to make the payments directly to the child. As used in this section, an "institution of

vocational education" means any postsecondary training or schooling for which the student is assessed a fee and attends classes regularly. "Higher education" means any community college, college, or university at which the child attends classes regularly. A child who has been diagnosed with a developmental disability, as defined in section 630.005, or whose physical disability or diagnosed health problem limits the child's ability to carry the number of credit hours prescribed in this subsection, shall remain eligible for child support so long as such child is enrolled in and attending an institution of vocational or higher education, and the child continues to meet the other requirements of this subsection. A child who is employed at least fifteen hours per week during the semester may take as few as nine credit hours per semester and remain eligible for child support so long as all other requirements of this subsection are complied with.

6. The court shall consider ordering a parent to waive the right to claim the tax dependency exemption for a child enrolled in an institution of vocational or higher education in favor of the other parent if the application of state and federal tax laws and eligibility for financial aid will make an award of the exemption to the other parent appropriate.

7. The general assembly finds and declares that it is the public policy of this state that frequent, continuing and meaningful contact with both parents after the parents have separated or dissolved their marriage is in the best interest of the child except for cases where the court specifically finds that such contact is not in the best interest of the child. In order to effectuate this public policy, a court with jurisdiction shall enforce visitation, custody and child support orders in the same manner. A court with jurisdiction may abate, in whole or in part, any past or future obligation of support and may transfer the physical and legal or physical or legal custody of one or more children if it finds that a parent has, without good cause, failed to provide visitation or physical and legal or physical or legal custody to the other parent pursuant to the terms of a judgment of dissolution, legal separation or modifications thereof. The court shall also award, if requested and for good cause shown, reasonable expenses, attorney's fees and court costs incurred by the prevailing party.

8. The Missouri supreme court shall have in effect a rule establishing guidelines by which any award of child support shall be made in any judicial or administrative proceeding. Said guidelines shall contain specific, descriptive and numeric criteria which will result in a computation of the support obligation. The guidelines shall address how the amount of child support shall be calculated when an award of joint physical custody results in the child or children spending **equal or** substantially equal time with both parents **and the directions and comments and any tabular representations of the directions and comments for completion of the child support guidelines and a subsequent form developed to reflect the guidelines, shall reflect the ability to obtain up to a fifty percent adjustment or credit below the basic child support amount for joint physical custody or visitation as described in subsection 11 of this section.** The Missouri supreme court shall publish child support guidelines and specifically list and explain the relevant factors and assumptions that were used to calculate the child support guidelines. Any rule made pursuant to this subsection shall be reviewed by the promulgating body not less than once every four years to ensure that its application results in the determination of appropriate child support award amounts.

9. There shall be a rebuttable presumption, in any judicial or administrative proceeding for the award of child support, that the amount of the award which would result from the application of the guidelines established pursuant to subsection 8 of this section is the correct amount of child support to be awarded. A written finding or specific finding on the record in a judicial or administrative proceeding that the application of the guidelines would be unjust or inappropriate in a particular case, after considering all relevant factors, including the factors set out in subsection 1 of this section, is required if requested by a party and shall be sufficient to rebut the presumption in the case. The written finding or specific finding on the record shall detail the specific relevant factors that required a deviation from the application of the guidelines.

10. Pursuant to this or any other chapter, when a court determines the amount owed by a parent for support provided to a child by another person, other than a parent, prior to the date of filing of a petition requesting support, or when the director of the family support division establishes the amount of state debt due pursuant to subdivision (2) of subsection 1 of section 454.465, the court or director shall use the guidelines established pursuant to subsection 8 of this section. The amount of child support resulting from the application of the guidelines shall be applied retroactively for a period prior to the establishment of a support order and the length of the period of retroactivity shall be left to the discretion of the court or director. There shall be a rebuttable presumption that the amount resulting from application of the guidelines under subsection 8 of this section constitutes the amount owed by the parent for the period prior to the date of the filing of the petition for support or the period for which state debt is being established. In applying the guidelines to determine a retroactive support amount, when information as to average monthly income is available, the court or director may use the average monthly income of the noncustodial parent, as averaged over the period of retroactivity, in determining the amount of presumed child support owed for the period of retroactivity. The court or director may enter a different amount in a particular case upon finding, after consideration of all relevant factors, including the factors set out in subsection 1 of this section, that there is sufficient cause to rebut the presumed amount.

**11. The court may award child support in an amount that provides up to a fifty percent adjustment below the basic child support amount authorized by the child support guidelines described under subsection 8 of this section for custody awards of joint physical custody where the child or children spend equal or substantially equal time with both parents.**

**12.** The obligation of a parent to make child support payments may be terminated as follows:

(1) Provided that the state case registry or child support order contains the child's date of birth, the obligation shall be deemed terminated without further judicial or administrative process when the child reaches age twenty-one if the child support order does not specifically require payment of child support beyond age twenty-one for reasons provided by subsection 4 of this section;

(2) The obligation shall be deemed terminated without further judicial or administrative process when the parent receiving child support furnishes a sworn statement or affidavit notifying the obligor parent of the child's emancipation in accordance with the requirements of subsection 4 of section 452.370, and a copy of such sworn statement or affidavit is filed with the court which entered the order establishing the child support obligation, or the family support division for an order entered under section 454.470;

(3) The obligation shall be deemed terminated without further judicial or administrative process when the parent paying child support files a sworn statement or affidavit with the court which entered the order establishing the child support obligation, or the family support division for an order entered under section 454.470, stating that the child is emancipated and reciting the factual basis for such statement; which statement or affidavit is served by the court or division, as applicable, on the child support obligee; and which is either acknowledged and affirmed by the child support obligee in writing, or which is not responded to in writing within thirty days of receipt by the child support obligee;

(4) The obligation shall be terminated as provided by this subdivision by the court which entered the order establishing the child support obligation, or the family support division for an order entered under section 454.470, when the parent paying child support files a sworn statement or affidavit with the court which entered the order establishing the child support obligation, or the family support division, as applicable, stating that the child is emancipated and reciting the factual basis for such statement; and which statement or affidavit is served by the court or division, as applicable, on the child support obligee. If the obligee denies the statement or affidavit, the court or division shall thereupon treat the sworn statement or affidavit as a request for hearing and shall

proceed to hear and adjudicate such request for hearing as provided by law; provided that the court may require the payment of a deposit as security for court costs and any accrued court costs, as provided by law, in relation to such request for hearing. When the division receives a request for hearing, the hearing shall be held in the manner provided by section 454.475.

[12.] **13.** The court may enter a judgment terminating child support pursuant to subdivisions (1) to (3) of subsection [11] **12** of this section without necessity of a court appearance by either party. The clerk of the court shall mail a copy of a judgment terminating child support entered pursuant to subsection [11] **12** of this section on both the obligor and obligee parents. The supreme court may promulgate uniform forms for sworn statements and affidavits to terminate orders of child support obligations for use pursuant to subsection [11] **12** of this section and subsection 4 of section 452.370.

**455.007. MOOTNESS DOCTRINE, PUBLIC INTEREST EXCEPTION TO APPLY, WHEN. — Notwithstanding any other provision of law to the contrary, the public interest exception to the mootness doctrine shall apply to an appeal of a full order of protection which:**

- (1) Has expired; and**
- (2) Subjects the person against whom such order is issued to significant collateral consequences by the mere existence of such full order of protection after its expiration.**

**475.060. APPLICATION FOR GUARDIANSHIP — PETITION FOR GUARDIANSHIP REQUIREMENTS — INCAPACITATED PERSONS, PETITION REQUIREMENTS. — 1.** Any person may file a petition for the appointment of himself **or herself** or some other qualified person as guardian of a minor [or guardian of an incapacitated person]. Such petition shall state:

(1) The name, age, domicile, actual place of residence and post office address of the minor [or incapacitated person] if known and if any of these facts is unknown, the efforts made to ascertain that fact;

(2) The estimated value of [his] **the minor's** real and personal property, **and the location and value of any real property owned by the minor outside of this state;**

(3) If the minor [or incapacitated person] has no domicile or place of residence in this state, the county in which the property or major part thereof of the minor [or incapacitated person] is located;

(4) The name and address of the parents of the minor [or incapacitated person] and whether they are living or dead;

(5) The name and address of the spouse, and the names, ages and addresses of all living children of the minor [or incapacitated person];

(6) The name and address of the person having custody of the person of the minor [or incapacitated person];

(7) The name and address of any guardian of the person or conservator of the estate of the minor [or incapacitated person] appointed in this or any other state;

(8) If appointment is sought for a natural person, other than the public administrator, the names and addresses of wards and disabled persons for whom such person is already guardian or conservator;

(9) [In the case of an incapacitated person, the fact that the person for whom guardianship is sought is unable by reason of some specified physical or mental condition to receive and evaluate information or to communicate decisions to such an extent that the person lacks capacity to meet essential requirements for food, clothing, shelter, safety or other care such that serious physical injury, illness or disease is likely to occur] **The name and address of the trustees and the purpose of any trust of which the minor is a qualified beneficiary;**

(10) The reasons why the appointment of a guardian is sought;

(11) A petition for the appointment of a guardian of a minor may be filed for the sole and specific purpose of school registration or medical insurance coverage. Such a petition shall clearly set out this limited request and shall not be combined with a petition for conservatorship.

**2. Any person may file a petition for the appointment of himself or herself or some other qualified person as guardian of an incapacitated person. Such petition shall state:**

(1) If known, the name, age, domicile, actual place of residence, and post office address of the alleged incapacitated person, and for the period of three years before the filing of the petition, the most recent addresses, up to three, at which the alleged incapacitated person lived prior to the most recent address, and if any of these facts is unknown, the efforts made to ascertain that fact. In the case of a petition filed by a public official in his or her official capacity, the information required by this subdivision need only be supplied to the extent it is reasonably available to the petitioner;

(2) The estimated value of the alleged incapacitated person's real and personal property, and the location and value of any real property owned by the alleged incapacitated person outside of this state;

(3) If the alleged incapacitated person has no domicile or place of residence in this state, the county in which the property or major part thereof of the alleged incapacitated person is located;

(4) The name and address of the parents of the alleged incapacitated person and whether they are living or dead;

(5) The name and address of the spouse, the names, ages, and addresses of all living children of the alleged incapacitated person, the names and addresses of the alleged incapacitated person's closest known relatives, and the names and relationship, if known, of any adults living with the alleged incapacitated person; if no spouse, adult child, or parent is listed, the names and addresses of the siblings and children of deceased siblings of the alleged incapacitated person; the name and address of any agent appointed by the alleged incapacitated person in any durable power of attorney, and of the presently acting trustees of any trust of which the alleged incapacitated person is the grantor or is a qualified beneficiary or is or was the trustee or co-trustee and the purpose of the power of attorney or trust;

(6) The name and address of the person having custody of the person of the alleged incapacitated person;

(7) The name and address of any guardian of the person or conservator of the estate of the alleged incapacitated person appointed in this or any other state;

(8) If appointment is sought for a natural person, other than the public administrator, the names and addresses of wards and disabled persons for whom such person is already guardian or conservator;

(9) The fact that the person for whom guardianship is sought is unable by reason of some specified physical or mental condition to receive and evaluate information or to communicate decisions to such an extent that the person lacks capacity to meet essential requirements for food, clothing, shelter, safety, or other care such that serious physical injury, illness, or disease is likely to occur;

(10) The reasons why the appointment of a guardian is sought.

**475.061. APPLICATION FOR CONSERVATORSHIP — MAY COMBINE WITH PETITION FOR GUARDIAN OF PERSON.** — 1. Any person may file a petition in the probate division of the circuit court of the county of proper venue for the appointment of himself or some other qualified person as conservator of the estate of a minor or disabled person. The petition shall contain the same allegations as are set forth in subdivisions (1), (8), and (10) of **subsection 2** of section 475.060 with respect to the appointment of a guardian for an incapacitated person and, in addition thereto, an allegation that the respondent is unable by reason of some specific physical or mental condition

to receive and evaluate information or to communicate decisions to such an extent that the respondent lacks ability to manage his financial resources or that the respondent is under the age of eighteen years.

2. A petition for appointment of a conservator or limited conservator of the estate may be combined with a petition for appointment of a guardian or limited guardian of the person. In such a combined petition allegations need not be repeated.

**475.115. APPOINTMENT OF SUCCESSOR GUARDIAN OR CONSERVATOR — TRANSFER OF CASE, PROCEDURE.** — 1. When a guardian or conservator dies, is removed by order of the court, or resigns and his **or her** resignation is accepted by the court, the court shall have the same authority as it has in like cases over personal representatives and their sureties and may appoint another guardian or conservator in the same manner and subject to the same requirements as are herein provided for an original appointment of a guardian or conservator.

2. A public administrator may request transfer of any case to the jurisdiction of another county by filing a petition for transfer. If the receiving county meets the venue requirements of section 475.035 and the public administrator of the receiving county consents to the transfer, the court shall transfer the case. The court with jurisdiction over the receiving county shall, without the necessity of any hearing as required by section 475.075, appoint the public administrator of the receiving county as successor guardian and/or successor conservator and issue letters therein. In the case of a conservatorship, the final settlement of the public administrator's conservatorship shall be filed within thirty days of the court's transfer of the case, in the court with jurisdiction over the original conservatorship, and forwarded to the receiving county upon audit and approval.

## ARTICLE 1 GENERAL PROVISIONS

**475.501. SHORT TITLE.** — Sections 475.501 to 475.555 may be cited as the "Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act".

**475.502. DEFINITIONS.** — Notwithstanding the definitions in section 475.010, when used in sections 475.501 to 475.555, the following terms mean:

- (1) "Adult", an individual who has attained eighteen years of age;
  - (2) "Conservator", a person appointed by the court to administer the property of an adult, including a person appointed under this chapter;
  - (3) "Guardian", a person appointed by the court to make decisions regarding the person of an adult, including a person appointed under this chapter;
  - (4) "Guardianship order", an order appointing a guardian;
  - (5) "Guardianship proceeding", a proceeding in which an order for the appointment of a guardian is sought or has been issued;
  - (6) "Incapacitated person", an adult for whom a guardian has been appointed;
  - (7) "Party", the respondent, petitioner, guardian, conservator, or any other person allowed by the court to participate in a guardianship or protective proceeding;
  - (8) "Person", except in the term "incapacitated person" or "protected person", an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity;
  - (9) "Protected person", an adult for whom a protective order has been issued;
  - (10) "Protective order", an order appointing a conservator or other order related to management of an adult's property;
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(11) "Protective proceeding", a judicial proceeding in which a protective order is sought or has been issued;

(12) "Record", information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(13) "Respondent", an adult for whom a protective order or the appointment of a guardian is sought;

(14) "State", a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.

**475.503. INTERNATIONAL APPLICATION OF ACT.** — A court of this state may treat a foreign country as if it were a state for the purpose of applying this article and articles 2, 3, and 5.

**475.504. COMMUNICATION BETWEEN COURTS.** — 1. A court of this state may communicate with a court in another state concerning a proceeding arising under sections 475.501 to 475.555. The court may allow the parties to participate in the communication. Except as otherwise provided in subsection 2 of this section, the court shall make a record of the communication. The record may be limited to the fact that the communication occurred.

2. Courts may communicate concerning schedules, calendars, court records, and other administrative matters without making a record.

**475.505. COOPERATION BETWEEN COURTS.** — 1. In a guardianship or protective proceeding in this state, a court of this state may request the appropriate court of another state to:

- (1) Hold an evidentiary hearing;
- (2) Order a person in that state to produce evidence or give testimony pursuant to procedures of that state;
- (3) Order that an evaluation or assessment be made of the respondent;
- (4) Order any appropriate investigation of a person involved in a proceeding;
- (5) Forward to the court of this state a certified copy of the transcript or other record of a hearing under subdivision (1) of subsection 1 of this section or any other proceeding, any evidence otherwise produced under subdivision (2) of subsection 1 of this section, and any evaluation or assessment prepared in compliance with an order under subdivisions (3) and (4) of subsection 1 of this section;
- (6) Issue any order necessary to assure the appearance in the proceeding of a person whose presence is necessary for the court to make a determination, including the respondent or the incapacitated or protected person;
- (7) Issue an order authorizing the release of medical, financial, criminal, or other relevant information in that state, including protected health information as defined in 45 CFR 160.103, as amended.

2. If a court of another state in which a guardianship or protective proceeding is pending requests assistance of the kind provided in subsection 1 of this section, a court of this state has jurisdiction for the limited purpose of granting the request or making reasonable efforts to comply with the request.

**475.506. TAKING TESTIMONY IN ANOTHER STATE.** — 1. In a guardianship or protective proceeding, in addition to other procedures that may be available, testimony of a witness who is located in another state may be offered by deposition or other means allowable in this state for testimony taken in another state. The court on its own motion

may order that the testimony of a witness be taken in another state and may prescribe the manner in which and the terms upon which the testimony is to be taken.

2. In a guardianship or protective proceeding, a court in this state may permit a witness located in another state to be deposed or to testify by telephone or audiovisual or other electronic means. A court of this state shall cooperate with court of the other state in designating an appropriate location for the deposition or testimony.

3. Documentary evidence transmitted from another state to a court of this state by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the best evidence rule.

## ARTICLE 2 JURISDICTION

**475.521. DEFINITIONS — SIGNIFICANT CONNECTION FACTORS. — 1.** In this article, the following terms mean:

(1) "Emergency", a circumstance that likely will result in substantial harm to a respondent's health, safety, or welfare, and for which the appointment of a guardian is necessary because no other person has authority and is willing to act on the respondent's behalf;

(2) "Home state", the state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months immediately before the filing of a petition for a protective order or the appointment of a guardian; or if none, the state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months ending within the six months prior to the filing of the petition;

(3) "Significant-connection state", a state, other than the home state, with which a respondent has a significant connection other than mere physical presence and in which substantial evidence concerning the respondent is available.

2. In determining under section 475.523 and subsection 5 of section 475.531 whether a respondent has a significant connection with a particular state, the court shall consider:

(1) The location of the respondent's family and other persons required to be notified of the guardianship or protective proceeding;

(2) The length of time the respondent at any time was physically present in the state and the duration of any absence;

(3) The location of the respondent's property; and

(4) The extent to which the respondent has ties to the state such as voting registration, state or local tax return filing, vehicle registration, driver's license, social relationship, and receipt of services.

**475.522. EXCLUSIVE BASIS. —** This article provides the exclusive jurisdictional basis for a court of this state to appoint a guardian or issue a protective order for an adult.

**475.523. JURISDICTION. —** A court of this state has jurisdiction to appoint a guardian or issue a protective order for a respondent if:

(1) This state is the respondent's home state;

(2) On the date a petition is filed, this state is a significant-connection state and:

(a) The respondent does not have a home state or a court of the respondent's home state has declined to exercise jurisdiction because this state is a more appropriate forum; or



(b) The respondent has a home state, a petition for an appointment or order is not pending in a court of that state or another significant-connection state, and, before the court makes the appointment or issues the order:

- a. A petition for an appointment or order is not filed in the respondent's home state;
- b. An objection to the court's jurisdiction is not filed by a person required to be notified of the proceeding; and
- c. The court in this state concludes that it is an appropriate forum under the factors set forth in section 475.526;

(3) This state does not have jurisdiction under either subdivisions (1) or (2) of this section, the respondent's home state and all significant-connection states have declined to exercise jurisdiction because this state is the more appropriate forum, and jurisdiction in this state is consistent with the constitutions of this state and the United States; or

(4) The requirements for special jurisdiction under section 475.524 are met.

**475.524. SPECIAL JURISDICTION.** — 1. A court of this state lacking jurisdiction under section 475.523 has special jurisdiction to do any of the following:

(1) Appoint a guardian in an emergency for a term not exceeding ninety days for a respondent who is physically present in this state;

(2) Issue a protective order with respect to real or tangible personal property located in this state;

(3) Appoint a guardian or conservator for an incapacitated or protected person for whom a provisional order to transfer the proceeding from another state has been issued under procedures similar to section 475.531.

2. If a petition for the appointment of a guardian in an emergency is brought in this state and this state was not the respondent's home state on the date the petition was filed, the court shall dismiss the proceeding at the request of the court of the home state, if any, whether dismissal is requested before or after the emergency appointment.

**475.525. EXCLUSIVE AND CONTINUING JURISDICTION.** — Except as otherwise provided in section 475.524, a court that has appointed a guardian or issued a protective order consistent with sections 475.501 to 475.555 has exclusive and continuing jurisdiction over the proceeding until it is terminated by the court or the appointment or order expires by its own terms.

**475.526. APPROPRIATE FORUM.** — 1. A court of this state having jurisdiction under section 475.523 to appoint a guardian or issue a protective order may decline to exercise its jurisdiction if it determines at any time that a court of another state is a more appropriate forum.

2. If a court of this state declines to exercise its jurisdiction under subsection 1 of this section, it shall either dismiss or stay the proceeding. The court may impose any condition the court considers just and proper, including the condition that a petition for the appointment of a guardian or protective order be promptly filed in another state.

3. In determining whether it is an appropriate forum, the court shall consider all relevant factors, including:

- (1) Any expressed preference of the respondent;
- (2) Whether abuse, neglect, or exploitation of the respondent has occurred or is likely to occur and which state could best protect the respondent from the abuse, neglect, or exploitation;
- (3) The length of time the respondent was physically present in or was a legal resident of this or another state;
- (4) The distance of the respondent from the court in each state;

- (5) The financial circumstances of the respondent's estate;
- (6) The nature and location of the evidence;
- (7) The ability of the court in each state to decide the issue expeditiously and the procedures necessary to present evidence;
- (8) The familiarity of the court of each state with the facts and issues in the proceeding; and
- (9) If an appointment were made, the court's ability to monitor the conduct of the guardian or conservator.

**475.527. JURISDICTION DECLINED BY REASON OF CONDUCT. — 1.** If at any time a court of this state determines that it acquired jurisdiction to appoint a guardian or issue a protective order because of unjustifiable conduct, the court may:

- (1) Decline to exercise jurisdiction;
- (2) Exercise jurisdiction for the limited purpose of fashioning an appropriate remedy to ensure the health, safety, and welfare of the respondent or the protection of the respondent's property or prevent a repetition of the unjustifiable conduct, including staying the proceeding until a petition for the appointment of a guardian or issuance of a protective order is filed in a court of another state having jurisdiction; or
- (3) Continue to exercise jurisdiction after considering:
  - (a) The extent to which the respondent and all persons required to be notified of the proceedings have acquiesced in the exercise of the court's jurisdiction;
  - (b) Whether it is a more appropriate forum than the court of any other state under the factors set forth in subsection 3 of section 475.526; and
  - (c) Whether the court of any other state would have jurisdiction under factual circumstances in substantial conformity with the jurisdictional standards of section 475.523.

**2.** If a court of this state determines that it acquired jurisdiction to appoint a guardian or issue a protective order because a party seeking to invoke its jurisdiction engaged in unjustifiable conduct, it may assess against that party necessary and reasonable expenses, including attorney's fees, investigative fees, court costs, communication expenses, witness fees and expenses, and travel expenses. The court may not assess fees, costs, or expenses of any kind against this state or a governmental subdivision, agency, or instrumentality of this state unless authorized by law other than sections 475.501 to 475.555.

**475.528. NOTICE OF PROCEEDING. —** If a petition for the appointment of a guardian or issuance of a protective order is brought in this state and this state was not the respondent's home state on the date the petition was filed, in addition to complying with the notice requirements of this state, notice of the petition shall be given to those persons who would be entitled to notice of the petition if a proceeding were brought in the respondent's home state. The notice shall be given in the same manner as notice is required to be given in this state.

**475.529. PROCEEDINGS IN MORE THAN ONE STATE. —** Except for a petition for the appointment of a guardian in an emergency or issuance of a protective order limited to property located in this state as provided in subdivision (1) or (2) of subsection 1 of section 475.524, if a petition for the appointment of a guardian or issuance of a protective order is filed in this and in another state and neither petition has been dismissed or withdrawn, the following rules apply:

(1) If the court in this state has jurisdiction under section 475.523, it may proceed with the case unless a court in another state acquires jurisdiction under provisions similar to section 475.523 before the appointment or issuance of the order.

(2) If the court in this state does not have jurisdiction under section 475.523, whether at the time the petition is filed or at any time before the appointment or issuance of the order, the court shall stay the proceeding and communicate with the court in the other state. If the court in the other state has jurisdiction, the court in this state shall dismiss the petition unless the court in the other state determines that the court in this state is a more appropriate forum.

### ARTICLE 3 TRANSFER OF GUARDIANSHIP OR CONSERVATORSHIP

#### 475.531. TRANSFER OF GUARDIANSHIP OR CONSERVATORSHIP TO ANOTHER STATE. —

1. A guardian or conservator appointed in this state may petition the court to transfer the guardianship or conservatorship to another state.

2. Notice of a petition under subsection 1 of this section shall be given to those persons that would be entitled to notice of a petition in this state for the appointment of a guardian or conservator.

3. On the court's own motion or on request of the guardian or conservator, the incapacitated or protected person, or other person required to be notified of the petition, the court shall hold a hearing on a petition filed pursuant to subsection 1 of this section.

4. The court shall issue an order provisionally granting a petition to transfer a guardianship and shall direct the guardian to petition for guardianship in the other state if the court is satisfied that the guardianship will be accepted by the court in the other state and the court finds that:

(1) The incapacitated person is physically present in or is reasonably expected to move permanently to the other state;

(2) An objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the incapacitated person; and

(3) Plans for care and services for the incapacitated person in the other state are reasonable and sufficient.

5. The court shall issue a provisional order granting a petition to transfer a conservatorship and shall direct the conservator to petition for conservatorship in the other state if the court is satisfied that the conservatorship will be accepted by the court of the other state and the court finds that:

(1) The protected person is physically present in or is reasonably expected to move permanently to the other state, or the protected person has a significant connection to the other state considering the factors set forth in subsection 2 of section 475.521;

(2) An objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the protected person; and

(3) Adequate arrangements will be made for management of the protected person's property.

6. The court shall issue a final order confirming the transfer and terminating the guardianship or conservatorship upon its receipt of:

(1) A provisional order accepting the proceeding from the court to which the proceeding is to be transferred which is issued under provisions similar to section 475.532; and

(2) The documents required to terminate a guardianship or conservatorship in this state.

**475.532. ACCEPTING GUARDIANSHIP OR CONSERVATORSHIP TRANSFERRED FROM ANOTHER STATE. — 1.** To confirm transfer of a guardianship or conservatorship transferred to this state under provisions similar to those in section 475.531, the guardian or conservator shall petition the court in this state to accept the guardianship or conservatorship. The petition shall include a certified copy of the other state's provisional order of transfer.

2. Notice of a petition under subsection 1 of this section shall be given to those persons that would be entitled to notice if the petition were a petition for the appointment of a guardian or issuance of a protective order in both the transferring state and this state. The notice shall be given in the same manner as notice is required to be given in this state.

3. On the court's own motion or on request of the guardian or conservator, the incapacitated or protected person, or other person required to be notified of the proceeding, the court shall hold a hearing on a petition filed pursuant to subsection 1 of this section.

4. The court shall issue an order provisionally granting a petition filed under subsection 1 of this section unless:

(1) An objection is made and the objector establishes that transfer of the proceeding would be contrary to the interests of the incapacitated or protected person; or

(2) The guardian or conservator is ineligible for appointment in this state.

5. The court shall issue a final order accepting the proceeding and appointing the guardian or conservator as guardian or conservator in this state upon its receipt from the court from which the proceeding is being transferred of a final order issued under provisions similar to section 475.531 transferring the proceeding to this state.

6. Not later than ninety days after issuance of a final order accepting transfer of a guardianship or conservatorship, the court shall determine whether the guardianship or conservatorship needs to be modified to conform to the law of this state.

7. In granting a petition under this section, the court shall recognize a guardianship or conservatorship order from the other state, including the determination of the incapacitated or protected person's incapacity and the appointment of the guardian or conservator.

8. The denial by a court of this state of a petition to accept guardianship or conservatorship transferred from another state does not affect the ability of the guardian or conservator to seek appointment as guardian or conservator in this state under this chapter if the court has jurisdiction to make an appointment other than by reason of the provisional order of transfer.

#### ARTICLE 4

#### REGISTRATION AND RECOGNITION OF ORDERS FROM OTHER STATES

**475.541. REGISTRATION OF GUARDIANSHIP ORDERS. —** If a guardian has been appointed in another state and a petition for the appointment of a guardian is not pending in this state, the guardian appointed in the other state, after giving notice to the appointing court of an intent to register, may register the guardianship order in this state by filing as a foreign judgment in a court, in any appropriate county of this state, certified copies of the order and letters of office.

**475.542. REGISTRATION OF PROTECTIVE ORDERS. —** If a conservator has been appointed in another state and a petition for a protective order is not pending in this state, the conservator appointed in the other state, after giving notice to the appointing court of an intent to register, may register the protective order in this state by filing as a foreign judgment in a court of this state, in any county in which property belonging to the

protected person is located, certified copies of the order and letters of office and of any bond.

**475.543. EFFECT OF REGISTRATION. — 1.** Upon registration of a guardianship or protective order from another state, the guardian or conservator may exercise in this state all powers authorized in the order of appointment except as prohibited under the laws of this state, including maintaining actions and proceedings in this state and, if the guardian or conservator is not a resident of this state, subject to any conditions imposed upon nonresident parties.

**2.** A court of this state may grant any relief available under sections 475.501 to 475.555 and other law of this state to enforce a registered order.

**475.544. STATE LAW APPLICABILITY. —** Except where inconsistent with sections 475.541, 475.542, and 475.543, the laws of this state relating to the registration and recognition of the acts of a foreign guardian, curator, or conservator contained in sections 475.335 to 475.340 shall be applicable.

## ARTICLE 5 MISCELLANEOUS PROVISIONS

**475.551. UNIFORMITY OF APPLICATION AND CONSTRUCTION. —** In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**475.552. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. —** Sections 475.501 to 475.555 modify, limit, and supersede the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

**475.555. EFFECTIVE DATE. — 1.** Sections 475.501 to 475.555 apply to guardianship and protective proceedings begun on or after August 28, 2011.

**2.** Articles 1, 3, 4, and sections 475.551 and 475.552 apply to proceedings begun before August 28, 2011, regardless of whether a guardianship or protective order has been issued.

**477.650. BASIC CIVIL LEGAL SERVICES FUND CREATED, MONEYS TO BE USED TO INCREASE FUNDING FOR LEGAL SERVICES TO ELIGIBLE LOW-INCOME PERSONS — ALLOCATION OF MONEYS — RECORD-KEEPING REQUIREMENTS — REPORT TO GENERAL ASSEMBLY — EXPIRATION DATE. — 1.** There is hereby created in the state treasury the "Basic Civil Legal Services Fund", to be administered by, or under the direction of, the Missouri supreme court. All moneys collected under section 488.031 shall be credited to the fund. In addition to the court filing surcharges, funds from other public or private sources also may be deposited into the fund and all earnings of the fund shall be credited to the fund. The purpose of this section is to increase the funding available for basic civil legal services to eligible low-income persons as such persons are defined by the Federal Legal Services Corporation's Income Eligibility Guidelines.

**2.** Funds in the basic civil legal services fund shall be allocated annually and expended to provide legal representation to eligible low-income persons in the state in civil matters. Moneys, funds, or payments paid to the credit of the basic civil legal services fund shall, at least as often as annually, be distributed to the legal services organizations in this state which qualify for Federal

Legal Services Corporation funding. The funds so distributed shall be used by legal services organizations in this state solely to provide legal services to eligible low-income persons as such persons are defined by the Federal Legal Services Corporation's Income Eligibility Guidelines. Fund money shall be subject to all restrictions imposed on such legal services organizations by law. Funds shall be allocated to the programs according to the funding formula employed by the Federal Legal Services Corporation for the distribution of funds to this state. Notwithstanding the provisions of section 33.080, any balance remaining in the basic civil legal services fund at the end of any year shall not be transferred to the state's general revenue fund. Moneys in the basic civil legal services fund shall not be used to pay any portion of a refund mandated by article X, section 15 of the Missouri Constitution. State legal services programs shall represent individuals to secure lawful state benefits, but shall not sue the state, its agencies, or its officials, with any state funds.

3. Contracts for services with state legal services programs shall provide eligible low-income Missouri citizens with equal access to the civil justice system, with a high priority on families and children, domestic violence, the elderly, and qualification for benefits under the Social Security Act. State legal services programs shall abide by all restrictions, requirements, and regulations of the Legal Services Corporation regarding their cases.

4. The Missouri supreme court, or a person or organization designated by the court, is the administrator and shall administer the fund in such manner as determined by the Missouri supreme court, including in accordance with any rules and policies adopted by the Missouri supreme court for such purpose. Moneys from the fund shall be used to pay for the collection of the fee and the implementation and administration of the fund.

5. Each recipient of funds from the basic civil legal services fund shall maintain appropriate records accounting for the receipt and expenditure of all funds distributed and received pursuant to this section. These records must be maintained for a period of five years from the close of the fiscal year in which such funds are distributed or received or until audited, whichever is sooner. All funds distributed or received pursuant to this section are subject to audit by the Missouri supreme court or the state auditor.

6. The Missouri supreme court, or a person or organization designated by the court, shall, by January thirty-first of each year, report to the general assembly on the moneys collected and disbursed pursuant to this section and section 488.031 by judicial circuit.

7. The provisions of this section shall expire on December 31, [2012] **2018**.

**484.350. STANDARDS FOR REPRESENTATION TO BE UPDATED AND ADOPTED STATEWIDE, WHEN.** — Recognizing that Missouri children have a right to adequate and effective representation in child welfare cases, the September 17, 1996, Missouri supreme court standards for representation by guardians ad litem shall be **updated and** adopted statewide and each circuit shall devise a plan for implementation which takes into account the individual needs of their circuit as well as the negative impact that excessive caseloads have upon effectiveness of counsel. These plans shall be approved by the supreme court en banc and fully implemented by July 1, 2011.

**523.040. APPOINTMENT OF COMMISSIONERS — DUTIES — NOTICE OF PROPERTY VIEWING.** — 1. The court, or judge thereof in vacation, on being satisfied that due notice of the pendency of the petition has been given, shall appoint three disinterested commissioners, who shall be residents of the county in which the real estate or a part thereof is situated, **and in any city not within a county, any county with a charter form of government and with more than one million inhabitants, or any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants at least one of the commissioners shall be either a licensed real estate broker or a state-licensed or state-certified real estate appraiser**, to assess the damages which the owners may severally sustain by reason of such appropriation, who, within forty-five days after appointment by the court, which forty-five days may be extended by the court to a date certain with good cause shown, after

applying the definition of fair market value contained in subdivision (1) of section 523.001, and after having viewed the property, shall return to the clerk of such court, under oath, their report in duplicate of such assessment of damages, setting forth the amount of damages allowed to the person or persons named as owning or claiming the tract of land condemned, and should more than one tract be condemned in the petition, then the damages allowed to the owner, owners, claimant or claimants of each tract, respectively, shall be stated separately, together with a specific description of the tracts for which such damages are assessed; and the clerk shall file one copy of said report in his office and record the same in the order book of the court, and he shall deliver the other copy, duly certified by him, to the recorder of deeds of the county where the land lies (or to the recorder of deeds of the city of St. Louis, if the land lies in said city) who shall record the same in his office, and index each tract separately as provided in section 59.440, and the fee for so recording shall be taxed by the clerk as costs in the proceedings; and thereupon such company shall pay to the clerk the amount thus assessed for the party in whose favor such damages have been assessed; and on making such payment it shall be lawful for such company to hold the interest in the property so appropriated for the uses prescribed in this section; and upon failure to pay the assessment, the court may, upon motion and notice by the party entitled to such damages, enforce the payment of the same by execution, unless the said company shall, within ten days from the return of such assessment, elect to abandon the proposed appropriation of any parcel of land, by an instrument in writing to that effect, to be filed with the clerk of the court, and entered on the minutes of the court, and as to so much as is thus abandoned, the assessment of damages shall be void.

2. Prior to the issuance of any report under subsection 1 of this section, a commissioner shall notify all parties named in the condemnation petition no less than ten days prior to the commissioners' viewing of the property of the named parties' opportunity to accompany the commissioners on the commissioners' viewing of the property and of the named parties' opportunity to present information to the commissioners.

3. The commissioners shall view the property, hear arguments, and review other relevant information that may be offered by the parties.

**544.455. RELEASE OF PERSON CHARGED, WHEN — CONDITIONS WHICH MAY BE IMPOSED.** — 1. Any person charged with a bailable offense, at his **or her** appearance before an associate circuit judge or judge may be ordered released pending trial, appeal, or other stage of the proceedings against him on his personal recognizance, unless the associate circuit judge or judge determines, in the exercise of his discretion, that such a release will not reasonably assure the appearance of the person as required. When such a determination is made, the associate circuit judge or judge may either in lieu of or in addition to the above methods of release, impose any or any combination of the following conditions of release which will reasonably assure the appearance of the person for trial:

(1) Place the person in the custody of a designated person or organization agreeing to supervise him;

(2) Place restriction on the travel, association, or place of abode of the person during the period of release;

(3) Require the execution of a bail bond with sufficient solvent sureties, or the deposit of cash in lieu thereof;

(4) Require the person to report regularly to some officer of the court, or peace officer, in such manner as the associate circuit judge or judge directs;

(5) Require the execution of a bond in a given sum and the deposit in the registry of the court of ten percent, or such lesser percent as the judge directs, of the sum in cash or negotiable bonds of the United States or of the state of Missouri or any political subdivision thereof;

(6) **Place the person on house arrest with electronic monitoring, except that all costs associated with the electronic monitoring shall be charged to the person on house arrest.**

**If the judge finds the person unable to afford the costs associated with electronic monitoring, then the judge shall not order that the person be placed on house arrest with electronic monitoring;**

(7) Impose any other condition deemed reasonably necessary to assure appearance as required, including a condition requiring that the person return to custody after specified hours.

2. In determining which conditions of release will reasonably assure appearance, the associate circuit judge or judge shall, on the basis of available information, take into account the nature and circumstances of the offense charged, the weight of the evidence against the accused, the accused's family ties, employment, financial resources, character and mental condition, the length of his residence in the community, his record of convictions, and his record of appearance at court proceedings or flight to avoid prosecution or failure to appear at court proceedings.

3. An associate circuit judge or judge authorizing the release of a person under this section shall issue an appropriate order containing a statement of the conditions imposed, if any, shall inform such person of the penalties applicable to violations of the conditions of his release and shall advise him that a warrant for his arrest will be issued immediately upon any such violation.

4. A person for whom conditions of release are imposed and who after twenty-four hours from the time of the release hearing continues to be detained as a result of his inability to meet the conditions of release, shall, upon application, be entitled to have the condition reviewed by the associate circuit judge or judge who imposed them. The motion shall be determined promptly.

5. An associate circuit judge or judge ordering the release of a person on any condition specified in this section may at any time amend his order to impose additional or different conditions of release; except that, if the imposition of such additional or different conditions results in the detention of the person as a result of his inability to meet such conditions or in the release of the person on a condition requiring him to return to custody after specified hours, the provisions of subsection 4 shall apply.

6. Information stated in, or offered in connection with, any order entered pursuant to this section need not conform to the rules pertaining to the admissibility of evidence in a court of law.

7. Nothing contained in this section shall be construed to prevent the disposition of any case or class of cases by forfeiture of collateral security where such disposition is authorized by the court.

8. Persons charged with violations of municipal ordinances may be released by a municipal judge or other judge who hears and determines municipal ordinance violation cases of the municipality involved under the same conditions and in the same manner as provided in this section for release by an associate circuit judge.

**9. A circuit court may adopt a local rule authorizing the pretrial release on electronic monitoring pursuant to subdivision (6) of subsection 1 of this section in lieu of incarceration of individuals charged with offenses specifically identified therein.**

**544.470. COMMITMENT OF INDIVIDUAL, WHEN — PRESUMPTION FOR ALIENS UNLAWFULLY PRESENT. —** 1. If the offense is not bailable, **if the individual is not granted electronic monitoring**, or if the [person] **individual** does not meet the conditions for release, as provided in section 544.455, the [prisoner] **individual** shall be committed to the jail of the county in which the same is to be tried, there to remain until [he] **such individual** be discharged by due course of law.

2. There shall be a presumption that releasing the person under any conditions as provided by section 544.455 shall not reasonably assure the appearance of the person as required if the circuit judge or associate circuit judge reasonably believes that the person is an alien unlawfully present in the United States. If such presumption exists, the person shall be committed to the jail, as provided in subsection 1 of this section, until such person provides verification of his or her lawful presence in the United States to rebut such presumption. If the person adequately proves his or her lawful presence, the circuit judge or associate circuit judge shall review the issue of release,



as provided under section 544.455, without regard to previous issues concerning whether the person is lawfully present in the United States. If the person cannot prove his or her lawful presence, the person shall continue to be committed to the jail and remain until discharged by due course of law.

**557.011. AUTHORIZED DISPOSITIONS.** — 1. Every person found guilty of an offense shall be dealt with by the court in accordance with the provisions of this chapter, except that for offenses defined outside this code and not repealed, the term of imprisonment or the fine that may be imposed is that provided in the statute defining the offense; however, the conditional release term of any sentence of a term of years shall be determined as provided in subsection 4 of section 558.011.

2. Whenever any person has been found guilty of a felony or a misdemeanor the court shall make one or more of the following dispositions of the offender in any appropriate combination. The court may:

- (1) Sentence the person to a term of imprisonment as authorized by chapter 558;
- (2) Sentence the person to pay a fine as authorized by chapter 560;
- (3) Suspend the imposition of sentence, with or without placing the person on probation;
- (4) Pronounce sentence and suspend its execution, placing the person on probation;
- (5) Impose a period of detention as a condition of probation, as authorized by section 559.026.

3. Whenever any person has been found guilty of an infraction, the court shall make one or more of the following dispositions of the offender in any appropriate combination. The court may:

- (1) Sentence the person to pay a fine as authorized by chapter 560;
- (2) Suspend the imposition of sentence, with or without placing the person on probation;
- (3) Pronounce sentence and suspend its execution, placing the person on probation.

4. Whenever any organization has been found guilty of an offense, the court shall make one or more of the following dispositions of the organization in any appropriate combination. The court may:

- (1) Sentence the organization to pay a fine as authorized by chapter 560;
- (2) Suspend the imposition of sentence, with or without placing the organization on probation;
- (3) Pronounce sentence and suspend its execution, placing the organization on probation;
- (4) Impose any special sentence or sanction authorized by law.

5. This chapter shall not be construed to deprive the court of any authority conferred by law to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty. An appropriate order exercising such authority may be included as part of any sentence.

**6. In the event a sentence of confinement is ordered executed, a court may order that an individual serve all or any portion of such sentence on electronic monitoring, except that all costs associated with the electronic monitoring shall be charged to the person on house arrest. If the judge finds the person unable to afford the costs associated with electronic monitoring, then the judge shall not order that the person be placed on house arrest with electronic monitoring.**

**566.086. SEXUAL CONTACT WITH A STUDENT.** — 1. A person commits the crime of sexual contact with a student [while on public school property] if he or she has sexual contact with a student of the public school [while on any public school property] and is:

- (1) A teacher, as that term is defined in subdivisions (4), (5), and (7) of section 168.104;
- (2) A student teacher;
- (3) An employee of the school;

(4) A volunteer of the school or of an organization working with the school on a project or program **who is not a student at the public school;** [or]

(5) **An elected or appointed official of the public school district; or**

(6) A person employed by an entity that contracts with the public school district to provide services.

2. [For the purposes of this section, "public school property" shall mean property of any public school in this state serving kindergarten through grade twelve or any school bus used by the public school district.

3.] Sexual contact with a student [while on public school property] is a class D felony.

**566.147. CERTAIN OFFENDERS NOT TO RESIDE WITHIN ONE THOUSAND FEET OF A SCHOOL OR CHILD-CARE FACILITY.** — 1. Any person who, since July 1, 1979, has been or hereafter has pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of:

(1) Violating any of the provisions of this chapter or the provisions of subsection 2 of section 568.020, incest; section 568.045, endangering the welfare of a child in the first degree; subsection 2 of section 568.080, use of a child in a sexual performance; section 568.090, promoting a sexual performance by a child; section 573.023, sexual exploitation of a minor; section 573.025, promoting child pornography in the first degree; section 573.035, promoting child pornography in the second degree; section 573.037, possession of child pornography, or section 573.040, furnishing pornographic material to minors; or

(2) Any offense in any other state or foreign country, or under federal, tribal, or military jurisdiction which, if committed in this state, would be a violation listed in this section;

shall not reside within one thousand feet of any public school as defined in section 160.011, [or] any private school giving instruction in a grade or grades not higher than the twelfth grade, [or] any child-care facility [as defined in section 210.201, which] **that is licensed under chapter 210, or any child-care facility as defined in section 210.201 that is exempt from state licensure but subject to state regulation under section 210.252 and holds itself out to be a child-care facility, where the school or facility** is in existence at the time the individual begins to reside at the location.

2. If such person has already established a residence and a public school, a private school, or child-care facility is subsequently built or placed within one thousand feet of such person's residence, then such person shall, within one week of the opening of such public school, private school, or child-care facility, notify the county sheriff where such public school, private school, or child-care facility is located that he or she is now residing within one thousand feet of such public school, private school, or child-care facility and shall provide verifiable proof to the sheriff that he or she resided there prior to the opening of such public school, private school, or child-care facility.

3. For purposes of this section, "resides" means sleeps in a residence, which may include more than one location and may be mobile or transitory.

4. Violation of the provisions of subsection 1 of this section is a class D felony except that the second or any subsequent violation is a class B felony. Violation of the provisions of subsection 2 of this section is a class A misdemeanor except that the second or subsequent violation is a class D felony.

**568.040. CRIMINAL NONSUPPORT, PENALTY — PAYMENT OF SUPPORT AS A CONDITION OF PAROLE — PROSECUTING ATTORNEYS TO REPORT CASES TO FAMILY SUPPORT DIVISION.**

— 1. A person commits the crime of nonsupport if such person knowingly fails to provide[, without good cause,] adequate support for his or her spouse; a parent commits the crime of nonsupport if such parent knowingly fails to provide[, without good cause,] adequate support

which such parent is legally obligated to provide for his or her child or stepchild who is not otherwise emancipated by operation of law.

2. For purposes of this section:

(1) "Child" means any biological or adoptive child, or any child whose paternity has been established under chapter 454, or chapter 210, or any child whose relationship to the defendant has been determined, by a court of law in a proceeding for dissolution or legal separation, to be that of child to parent;

(2) "Good cause" means any substantial reason why the defendant is unable to provide adequate support. Good cause does not exist if the defendant purposely maintains his inability to support;

(3) "Support" means food, clothing, lodging, and medical or surgical attention;

(4) It shall not constitute a failure to provide medical and surgical attention, if nonmedical remedial treatment recognized and permitted under the laws of this state is provided.

3. Inability to provide support for good cause shall be an affirmative defense under this section. A person who raises such affirmative defense has the burden of proving the defense by a preponderance of the evidence.

4. The defendant shall have the burden of injecting the issues raised by [subdivisions (2) and] **subdivision (4)** of subsection 2 [and subsection 3] of this section.

5. Criminal nonsupport is a class A misdemeanor, unless the total arrearage is in excess of an aggregate of twelve monthly payments due under any order of support issued by any court of competent jurisdiction or any authorized administrative agency, in which case it is a class D felony.

6. If at any time a defendant convicted of criminal nonsupport is placed on probation or parole, there may be ordered as a condition of probation or parole that the defendant commence payment of current support as well as satisfy the arrearages. Arrearages may be satisfied first by making such lump sum payment as the defendant is capable of paying, if any, as may be shown after examination of defendant's financial resources or assets, both real, personal, and mixed, and second by making periodic payments. Periodic payments toward satisfaction of arrears when added to current payments due may be in such aggregate sums as is not greater than fifty percent of the defendant's adjusted gross income after deduction of payroll taxes, medical insurance that also covers a dependent spouse or children, and any other court or administrative ordered support, only. If the defendant fails to pay the current support and arrearages as ordered, the court may revoke probation or parole and then impose an appropriate sentence within the range for the class of offense that the defendant was convicted of as provided by law, unless the defendant proves good cause for the failure to pay as required under subsection 3 of this section.

7. During any period that a nonviolent defendant is incarcerated for criminal nonsupport, if the defendant is ready, willing, and able to be gainfully employed during said period of incarceration, the defendant, if he or she meets the criteria established by the department of corrections, may be placed on work release to allow the defendant to satisfy defendant's obligation to pay support. Arrearages shall be satisfied as outlined in the collection agreement.

8. Beginning August 28, 2009, every nonviolent first- and second-time offender then incarcerated for criminal nonsupport, who has not been previously placed on probation or parole for conviction of criminal nonsupport, may be considered for parole, under the conditions set forth in subsection 6 of this section, or work release, under the conditions set forth in subsection 7 of this section.

9. Beginning January 1, 1991, every prosecuting attorney in any county which has entered into a cooperative agreement with the [division of] child support enforcement **service of the family support division of the department of social services** shall report to the division on a quarterly basis the number of charges filed and the number of convictions obtained under this section by the prosecuting attorney's office on all IV-D cases. The division shall consolidate the

reported information into a statewide report by county and make the report available to the general public.

10. Persons accused of committing the offense of nonsupport of the child shall be prosecuted:

(1) In any county in which the child resided during the period of time for which the defendant is charged; or

(2) In any county in which the defendant resided during the period of time for which the defendant is charged.

**570.080. RECEIVING STOLEN PROPERTY.** — 1. A person commits the crime of receiving stolen property if for the purpose of depriving the owner of a lawful interest therein, he or she receives, retains or disposes of property of another knowing that it has been stolen, or believing that it has been stolen.

2. Evidence of the following is admissible in any criminal prosecution pursuant to this section to prove the requisite knowledge or belief of the alleged receiver:

(1) That he or she was found in possession or control of other property stolen on separate occasions from two or more persons;

(2) That he or she received other stolen property in another transaction within the year preceding the transaction charged;

(3) That he or she acquired the stolen property for a consideration which he or she knew was far below its reasonable value;

(4) That he or she obtained control over stolen property knowing the property to have been stolen or under such circumstances as would reasonably induce a person to believe the property was stolen.

3. [Receiving stolen property is a class A misdemeanor unless the property involved has a value of five hundred dollars or more, or the person receiving the property is a dealer in goods of the type in question, or the property involved is an explosive weapon as that term is defined in section 571.010, in which cases receiving stolen property is a class C felony] **Except as otherwise provided in subsections 4 and 5 of this section, receiving stolen property is a class A misdemeanor.**

**4. Receiving stolen property is a class C felony if:**

(1) **The value of the property or services appropriated is five hundred dollars or more but less than twenty-five thousand dollars;**

(2) **The property has been physically taken from the person of the victim; or**

(3) **The property appropriated includes:**

(a) **Any motor vehicle, watercraft, or aircraft;**

(b) **Any will or unrecorded deed affecting real property;**

(c) **Any credit card or letter of credit;**

(d) **Any firearm;**

(e) **Any explosive weapon as that term is defined in section 571.010;**

(f) **A United States national flag designed, intended, and used for display on buildings or stationary flagstaffs in the open;**

(g) **Any original copy of an act, bill, or resolution, introduced or acted upon by the legislature of the state of Missouri;**

(h) **Any pleading, notice, judgment, or any other record or entry of any court of this state, any other state, or of the United States;**

(i) **Any book of registration or list of voters required by chapter 115;**

(j) **Any animal considered livestock as that term is defined in section 144.010;**

(k) **Any live fish raised for commercial sale with a value of seventy-five dollars or more;**

(l) **Any captive wildlife held under permit issued by the conservation commission;**

(m) Any controlled substance as that term is defined in section 195.010;  
(n) Anhydrous ammonia;  
(o) Ammonium nitrate; or  
(p) Any document of historical significance which has a fair market value of five hundred dollars or more.

5. The receipt of any item of property or services pursuant to subsection 4 of this section which exceeds five hundred dollars may be considered a separate felony and may be charged in separate counts.

6. Any person who previously has been found guilty of, or pled guilty to, receiving stolen property, when the property is of the kind described under paragraph (j) or (l) of subdivision (3) of subsection 4 of this section and the value of the animal or animals received exceeds three thousand dollars, is guilty of a class B felony. Such person shall serve a minimum prison term of not less than eighty percent of his or her sentence before being eligible for probation, parole, conditional release, or other early release by the department of corrections.

7. Receiving stolen property is a class B felony if the value of the property or services equals or exceeds twenty-five thousand dollars.

**578.150. FAILURE TO RETURN RENTED PERSONAL PROPERTY — EVIDENCE OF INTENT TO VIOLATE, WHEN — LAW ENFORCEMENT PROCEDURE — PENALTY — VENUE — EXCEPTION.** — 1. A person commits the crime of [failing to return] **stealing** leased or rented property if, with the intent to deprive the owner thereof, [he] **such person:**

(1) Purposefully fails to return leased or rented personal property to the place and within the time specified in an agreement in writing providing for the leasing or renting of such personal property[. In addition, any person who has leased or rented personal property of another who] ;

(2) Conceals or aids or abets the concealment of the property from the owner[, or who otherwise] ;

(3) Sells, **encumbers, conveys**, pawns, loans, abandons or gives away the leased or rented property [is guilty of the crime of failing to return leased or rented property] **or any part thereof, without the written consent of the lessor, or without informing the person to whom the property is transferred to that the property is subject to a lease;**

(4) **Returns the property to the lessor at the end of the lease term, plus any agreed upon extensions, but does not pay the lease charges agreed upon in the written instrument, with the intent to wrongfully deprive the lessor of the agreed upon charges.**

2. The provisions of this section shall apply to all forms of leasing and rental agreements, including, but not limited to, contracts which provide the consumer options to buy the leased or rented personal property, lease-purchase agreements and rent-to-own contracts. For the purpose of determining if a violation of this section has occurred, leasing contracts which provide options to buy the merchandise are owned by the owner of the property until such time as the owner endorses the sale and transfer of ownership of the leased property to the lessee.

[2. It shall be prima facie evidence of the crime of failing to return leased or rented property when a person who has leased or rented personal property of another willfully fails to return or make arrangements acceptable with the lessor to return the personal property to its owner at the owner's place of business within ten days after proper notice following the expiration of the lease or rental agreement] **3. Evidence that a lessee used a false, fictitious, or not current name, address, or place of employment in obtaining the property or that a lessee fails or refuses to return the property or pay the lease charges to the lessor within seven days after written demand for the return has been sent by certified mail, return receipt requested, to the address the person set forth in the lease agreement, or in the absence of the address, to the person's last known place of residence, shall be evidence of intent to violate the**

**provisions of this section**, except that if [the] a motor vehicle has not been returned within seventy-two hours after the expiration of the lease or rental agreement, such failure to return the motor vehicle shall be prima facie evidence of the intent of the crime of [failing to return] **stealing** leased or rented property. Where the leased or rented property is a motor vehicle, if the motor vehicle has not been returned within seventy-two hours after the expiration of the lease or rental agreement, the lessor may notify the local law enforcement agency of the failure of the lessee to return such motor vehicle, and the local law enforcement agency shall cause such motor vehicle to be put into any appropriate state and local computer system listing stolen motor vehicles. Any law enforcement officer which stops such a motor vehicle may seize the motor vehicle and notify the lessor that he may recover such motor vehicle after it is photographed and its vehicle identification number is recorded for evidentiary purposes. Where the leased or rented property is not a motor vehicle, if such property has not been returned within the [ten-day] **seven-day** period prescribed in this subsection, the owner of the property shall report the failure to return the property to the local law enforcement agency, and such law enforcement agency may within five days notify the person who leased or rented the property that such person is in violation of this section, and that failure to immediately return the property may subject such person to arrest for the violation.

[3.] **4.** This section shall not apply if such personal property is a vehicle and such return is made more difficult or expensive by a defect in such vehicle which renders such vehicle inoperable, if the lessee shall notify the lessor of the location of such vehicle and such defect before the expiration of the lease or rental agreement, or within ten days after proper notice.

[4. Proper notice by the lessor shall consist of a written demand addressed and mailed by certified or registered mail to the lessee at the address given at the time of making the lease or rental agreement. The notice shall contain a statement that the failure to return the property may subject the lessee to criminal prosecution.]

5. Any person who has leased or rented personal property of another who destroys such property so as to avoid returning it to the owner shall be guilty of property damage pursuant to section 569.100 or 569.120, in addition to being in violation of this section.

6. Venue shall lie in the county where the personal property was originally rented or leased.

7. [Failure to return] **Stealing** leased or rented property is a class A misdemeanor unless the property involved has a value of [five hundred] **one thousand** dollars or more, in which case [failing to return] **stealing** leased or rented property is a class C felony.

**589.040. DUTIES OF DEPARTMENT OF CORRECTIONS — CERTAIN INMATES TO PARTICIPATE IN PROGRAMS.** — 1. The director of the department of corrections shall develop a program of treatment, education and rehabilitation for all imprisoned offenders who are serving sentences for sexual assault offenses. When developing such programs, the ultimate goal shall be the prevention of future sexual assaults by the participants in such programs, and the director shall utilize those concepts, services, programs, projects, facilities and other resources designed to achieve this goal.

2. All persons imprisoned by the department of corrections for sexual assault offenses shall be required to successfully complete the programs developed pursuant to subsection 1 of this section **prior to being eligible for parole or conditional release.**

**632.312. TRANSPORTATION COSTS, SHERIFF MAY BE REIMBURSED.** — **Notwithstanding the provisions of section 105.452 to the contrary, a sheriff may receive reimbursement for the actual costs of transporting a person to and from a mental health facility pursuant to chapter 632 from a public or private hospital, not-for-profit charitable organization, the state, or a political subdivision. Reimbursement from the state for actual costs, except for allowable mileage expenses, shall be subject to appropriations.**

**SECTION B. EMERGENCY CLAUSE.** — Because of the need to adequately fund hospital districts in the state, the repeal and reenactment of section 144.032 and the enactment of section 205.205 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 144.032 and the enactment of section 205.205 of section A of this act shall be in full force and effect upon its passage and approval.

Approved July 8, 2011

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## HB 136 [HCS HB 136]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Allows the spouse of certain active military members to be eligible for unemployment benefits and to receive a temporary courtesy license to practice his or her occupation or profession in this state**

AN ACT to repeal sections 288.050, 288.090, and 288.100, RSMo, and to enact in lieu thereof four new sections relating to benefits for military spouses.

SECTION

A. Enacting clause.

288.050. Benefits denied unemployed workers, when — pregnancy, requirements for benefit eligibility.

288.090. Contributions required, when — payments in lieu of contributions, procedures — common paymaster arrangements.

288.100. Experience rating — employer accounts, credits and charges.

324.008. Nonresident military spouse, temporary courtesy license to be issued upon transfer of active duty military spouse, when — rulemaking authority.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 288.050, 288.090, and 288.100, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 288.050, 288.090, 288.100, and 324.008, to read as follows:

**288.050. BENEFITS DENIED UNEMPLOYED WORKERS, WHEN — PREGNANCY, REQUIREMENTS FOR BENEFIT ELIGIBILITY.** — 1. Notwithstanding the other provisions of this law, a claimant shall be disqualified for waiting week credit or benefits until after the claimant has earned wages for work insured pursuant to the unemployment compensation laws of any state equal to ten times the claimant's weekly benefit amount if the deputy finds:

(1) That the claimant has left work voluntarily without good cause attributable to such work or to the claimant's employer. A temporary employee of a temporary help firm will be deemed to have voluntarily quit employment if the employee does not contact the temporary help firm for reassignment prior to filing for benefits. Failure to contact the temporary help firm will not be deemed a voluntary quit unless the claimant has been advised of the obligation to contact the firm upon completion of assignments and that unemployment benefits may be denied for failure to do so. The claimant shall not be disqualified:

(a) If the deputy finds the claimant quit such work for the purpose of accepting a more remunerative job which the claimant did accept and earn some wages therein;

(b) If the claimant quit temporary work to return to such claimant's regular employer; or

(c) If the deputy finds the individual quit work, which would have been determined not suitable in accordance with paragraphs (a) and (b) of subdivision (3) of this subsection, within twenty-eight calendar days of the first day worked;

(d) As to initial claims filed after December 31, 1988, if the claimant presents evidence supported by competent medical proof that she was forced to leave her work because of pregnancy, notified her employer of such necessity as soon as practical under the circumstances, and returned to that employer and offered her services to that employer as soon as she was physically able to return to work, as certified by a licensed and practicing physician, but in no event later than ninety days after the termination of the pregnancy. An employee shall have been employed for at least one year with the same employer before she may be provided benefits pursuant to the provisions of this paragraph;



(e) **If the deputy finds that, due to the spouse's mandatory and permanent military change of station order, the claimant quit work to relocate with the spouse to a new residence from which it is impractical to commute to the place of employment and the claimant remained employed as long as was reasonable prior to the move. The claimant's spouse shall be a member of the U.S. Armed Forces who is on active duty, or a member of the national guard or other reserve component of the U.S. Armed Forces who is on active national guard or reserve duty. The provisions of this paragraph shall only apply to individuals who have been determined to be an insured worker as provided in subdivision (22) of subsection 1 of section 288.030;**

(2) That the claimant has retired pursuant to the terms of a labor agreement between the claimant's employer and a union duly elected by the employees as their official representative or in accordance with an established policy of the claimant's employer; or

(3) That the claimant failed without good cause either to apply for available suitable work when so directed by a deputy of the division or designated staff of an employment office as defined in subsection [16] 1 of section 288.030, or to accept suitable work when offered the claimant, either through the division or directly by an employer by whom the individual was formerly employed, or to return to the individual's customary self-employment, if any, when so directed by the deputy. An offer of work shall be rebuttably presumed if an employer notifies the claimant in writing of such offer by sending an acknowledgment via any form of certified mail issued by the United States Postal Service stating such offer to the claimant at the claimant's last known address. Nothing in this subdivision shall be construed to limit the means by which the deputy may establish that the claimant has or has not been sufficiently notified of available work.

(a) In determining whether or not any work is suitable for an individual, the division shall consider, among other factors and in addition to those enumerated in paragraph (b) of this subdivision, the degree of risk involved to the individual's health, safety and morals, the individual's physical fitness and prior training, the individual's experience and prior earnings, the individual's length of unemployment, the individual's prospects for securing work in the individual's customary occupation, the distance of available work from the individual's residence and the individual's prospect of obtaining local work; except that, if an individual has moved from the locality in which the individual actually resided when such individual was last employed to a place where there is less probability of the individual's employment at such individual's usual type of work and which is more distant from or otherwise less accessible to the community in which the individual was last employed, work offered by the individual's most recent employer if similar to that which such individual performed in such individual's last employment and at wages, hours, and working conditions which are substantially similar to those prevailing for similar work in such community, or any work which the individual is capable of performing at the wages prevailing for such work in the locality to which the individual has moved, if not hazardous to such individual's health, safety or morals, shall be deemed suitable for the individual;

(b) Notwithstanding any other provisions of this law, no work shall be deemed suitable and benefits shall not be denied pursuant to this law to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

- a. If the position offered is vacant due directly to a strike, lockout, or other labor dispute;
- b. If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;
- c. If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

2. If a deputy finds that a claimant has been discharged for misconduct connected with the claimant's work, such claimant shall be disqualified for waiting week credit and benefits, and no benefits shall be paid nor shall the cost of any benefits be charged against any employer for any period of employment within the base period until the claimant has earned wages for work insured under the unemployment laws of this state or any other state as prescribed in this section. In

addition to the disqualification for benefits pursuant to this provision the division may in the more aggravated cases of misconduct, cancel all or any part of the individual's wage credits, which were established through the individual's employment by the employer who discharged such individual, according to the seriousness of the misconduct. A disqualification provided for pursuant to this subsection shall not apply to any week which occurs after the claimant has earned wages for work insured pursuant to the unemployment compensation laws of any state in an amount equal to six times the claimant's weekly benefit amount. Should a claimant be disqualified on a second or subsequent occasion within the base period or subsequent to the base period the claimant shall be required to earn wages in an amount equal to or in excess of six times the claimant's weekly benefit amount for each disqualification.

3. Absenteeism or tardiness may constitute a rebuttable presumption of misconduct, regardless of whether the last incident alone constitutes misconduct, if the discharge was the result of a violation of the employer's attendance policy, provided the employee had received knowledge of such policy prior to the occurrence of any absence or tardy upon which the discharge is based.

4. Notwithstanding the provisions of subsection 1 of this section, a claimant may not be determined to be disqualified for benefits because the claimant is in training approved pursuant to Section 236 of the Trade Act of 1974, as amended, (19 U.S.C.A. Sec. 2296, as amended), or because the claimant left work which was not suitable employment to enter such training. For the purposes of this subsection "suitable employment" means, with respect to a worker, work of a substantially equal or higher skill level than the worker's past adversely affected employment, and wages for such work at not less than eighty percent of the worker's average weekly wage as determined for the purposes of the Trade Act of 1974.

**288.090. CONTRIBUTIONS REQUIRED, WHEN — PAYMENTS IN LIEU OF CONTRIBUTIONS, PROCEDURES — COMMON PAYMASTER ARRANGEMENTS.** — 1. Contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this law. Such contributions shall become due and be paid by each employer to the division for the fund on or before the last day of the month following each calendar quarterly period of three months except when regulation requires monthly payment. Any employer upon application, or pursuant to a general or special regulation, may be granted an extension of time, not exceeding three months, for the making of his or her quarterly contribution and wage reports or for the payment of such contributions. Payment of contributions due shall be made to the treasurer designated pursuant to section 288.290.

(1) In the payment of any contributions due, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent;

(2) Contributions shall not be deducted in whole or in part from the wages of individuals in employment.

2. As of June thirtieth of each year, the division shall establish an average industry contribution rate for the next succeeding calendar year for each of the industrial classification divisions listed in the industrial classification system established by the federal government. The average industry contribution rate for each standard industrial classification division shall be computed by multiplying total taxable wages paid by each employer in the industrial classification division during the twelve consecutive months ending on June thirtieth by the employer's contribution rate established for the next calendar year and dividing the aggregate product for all employers in the industrial classification division by the total of taxable wages paid by all employers in the industrial classification division during the twelve consecutive months ending on June thirtieth. Each employer will be assigned to an industrial classification code division as determined by the division in accordance with the definitions contained in the industrial classification system established by the federal government, and shall pay contributions at the average industry rate established for the preceding calendar year for the industrial classification division to which it is assigned or two and seven-tenths percent of taxable wages paid by it,

whichever is the greater, unless there have been at least twelve consecutive calendar months immediately preceding the calculation date throughout which its account could have been charged with benefits. The division shall classify all employers meeting this chargeability requirement for each calendar year in accordance with their actual experience in the payment of contributions on their own behalf and with respect to benefits charged against their accounts, with a view to fixing such contribution rates as will reflect such experience. The division shall determine the contribution rate of each such employer in accordance with sections 288.113 to 288.126. Notwithstanding the provisions of this subsection, any employing unit which becomes an employer pursuant to the provisions of subsection 7 or 8 of section 288.034 shall pay contributions equal to one percent of wages paid by it until its account has been chargeable with benefits for the period of time sufficient to enable it to qualify for a computed rate on the same basis as other employers.

3. Benefits paid to employees of any governmental entity and nonprofit organizations shall be financed in accordance with the provisions of this subsection. For the purpose of this subsection, a "nonprofit organization" is an organization (or group of organizations) described in Section 501(c)(3) of the United States Internal Revenue Code which is exempt from income tax under Section 501(a) of such code.

(1) A governmental entity which, pursuant to subsection 7 of section 288.034, or nonprofit organization which, pursuant to subsection 8 of section 288.034, is, or becomes, subject to this law on or after April 27, 1972, shall pay contributions due under the provisions of subsections 1 and 2 of this section unless it elects, in accordance with this subdivision, to pay to the division for the unemployment compensation fund an amount equal to the amount of regular benefits and of one-half of the extended benefits paid, that is attributable to service in the employ of such governmental entity or nonprofit organization, to individuals for weeks of unemployment which begin during the effective period of such election; except that, with respect to benefits paid for weeks of unemployment beginning on or after January 1, 1979, any such election by a governmental entity shall be to pay to the division for the unemployment compensation fund an amount equal to the amount of all regular benefits and all extended benefits paid that is attributable to service in the employ of such governmental entity.

(a) A governmental entity or nonprofit organization which is, or becomes, subject to this law on or after April 27, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than one calendar year, provided it files with the division a written notice of its election within the thirty-day period immediately following the date of the determination of such subjectivity. The provisions of paragraphs (a) through [(e)] (f) of subdivision (4) of subsection 1 of section 288.100 shall not apply in the calendar year 1998 and each calendar year thereafter, in the case of an employer who has elected to become liable for payments in lieu of contributions.

(b) A governmental entity or nonprofit organization which makes an election in accordance with paragraph (a) of this subdivision will continue to be liable for payments in lieu of contributions until it files with the division a written notice terminating its election not later than thirty days prior to the beginning of the calendar year for which such termination shall first be effective.

(c) A governmental entity or any nonprofit organization which has been paying contributions under this law for a period subsequent to January 1, 1972, may change to a reimbursable basis by filing with the division not later than thirty days prior to the beginning of any calendar year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by the organization for that and the next calendar year.

(d) The division, in accordance with such regulations as may be adopted, shall notify each governmental entity or nonprofit organization of any determination of its status of an employer and of the effective date of any election which it makes and of any termination of such election. Such determination shall be subject to appeal as is provided in subsection 4 of section 288.130.

(2) Payments in lieu of contributions shall be made in accordance with the provisions of paragraph (a) of this subdivision, as follows:

(a) At the end of each calendar quarter, or at the end of any other period as determined by the director, the division shall bill the governmental entity or nonprofit organization (or group of such organizations) which has elected to make payments in lieu of contributions for an amount equal to the full amount of regular benefits plus one-half of the amount of extended benefits paid during such quarter or other prescribed period that is attributable to service in the employ of such organization; except that, with respect to extended benefits paid for weeks of unemployment beginning on or after January 1, 1979, which are attributable to service in the employ of a governmental entity, the governmental entity shall be billed for the full amount of such extended benefits.

(b) Payment of any bill rendered under paragraph (a) of this subdivision shall be due and shall be made not later than thirty days after such bill was mailed to the last known address of the governmental entity or nonprofit organization or was otherwise delivered to it.

(c) Payments made by the governmental entity or nonprofit organization under the provisions of this subsection shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization.

(d) Past due payments of amounts in lieu of contributions shall be subject to the same interest and penalties that apply to past due contributions. Also, unpaid amounts in lieu of contributions, interest, penalties and surcharges are subject to the same assessment, civil action and compromise provisions of this law as apply to unpaid contributions. Further, the provisions of this law which provide for the adjustment or refund of contributions shall apply to the adjustment or refund of payments in lieu of contributions.

(3) If any governmental entity or nonprofit organization fails to timely file a required quarterly wage report, the division shall assess such entity or organization a penalty as provided in subsections 1 and 2 of section 288.160.

(4) Except as provided in subsection 4 of this section, each employer that is liable for payments in lieu of contributions shall pay to the division for the fund the amount of regular benefits plus the amount of one-half of extended benefits paid that are attributable to service in the employ of such employer; except that, with respect to benefits paid for weeks of unemployment beginning on or after January 1, 1979, a governmental entity that is liable for payments in lieu of contributions shall pay to the division for the fund the amount of all regular benefits and all extended benefits paid that are attributable to service in the employ of such employer. If benefits paid to an individual are based on wages paid by more than one employer in the base period of the claim, the amount chargeable to each employer shall be obtained by multiplying the benefits paid by a ratio obtained by dividing the base period wages from such employer by the total wages appearing in the base period.

(5) Two or more employers that have become liable for payments in lieu of contributions, in accordance with the provisions of subdivision (1) of this subsection, may file a joint application to the division for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers. Each such application shall identify and authorize a group representative to act as the group's agent for the purposes of this subdivision. Upon approval of the application, the division shall establish a group account for such employers effective as of the beginning of the calendar quarter in which the application was received and shall notify the group's representative of the effective date of the account. Such account shall remain in effect for not less than two years and thereafter until terminated at the discretion of the director or upon application by the group. Upon establishment of the account, each member of the group shall be liable for payments in lieu of contributions with respect to each calendar quarter in the amount that bears the same ratio to the total benefits paid in such quarter that are attributable to service performed in the employ of all members of the group as the total wages paid for service in employment by such member in such quarter bears to the total wages paid during such quarter for service performed in the employ of all members of the group. The director shall prescribe such regulations as he or she deems necessary with respect to applications

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for establishment, maintenance and termination of group accounts that are authorized by this subdivision, for addition of new members to, and withdrawal of active members from, such accounts, and for the determination of the amounts that are payable under this subdivision by members of the group and the time and manner of such payments.

4. Any employer which elects to make payments in lieu of contributions into the unemployment compensation fund as provided in subdivision (1) of subsection 3 of this section shall not be liable to make such payments with respect to the benefits paid to any individual whose base period wages include wages for previous work not classified as insured work as defined in section 288.030 to the extent that the unemployment compensation fund is reimbursed for such benefits pursuant to Section 121 of Public Law 94-566.

5. Beginning January 1, 1998, and each calendar year thereafter, any employer which elects to make payments in lieu of contributions pursuant to subsection 3 of this section shall be liable for all benefit payments and shall not have charges relieved pursuant to the provisions of paragraphs (a) through [(e)] (f) of subdivision (4) of subsection 1 of section 288.100.

6. (1) For the purposes of this chapter, a common paymaster arrangement will not exist unless approval has been obtained from the division. To receive a division-approved common paymaster arrangement, the related corporation designated to be the common paymaster for the related corporations must notify the division in writing at least thirty days prior to the beginning of the quarter in which the common paymaster reporting is to be effective. The common paymaster shall furnish the name and account number of each corporation in the related group that will be utilizing the one corporation as the common paymaster. The common paymaster shall also notify the division at least thirty days prior to any change in the related group of corporations or termination of the common paymaster arrangement. The common paymaster shall be responsible for keeping books and records for the payroll with respect to its own employees and the concurrently employed individuals of the related corporations. In order for remuneration to be eligible for the provisions applicable to a common paymaster, the individuals must be concurrently employed and the remuneration must be disbursed through the common paymaster. The common paymaster shall have the primary responsibility for remitting all required quarterly contribution and wage reports, contributions due with respect to the remuneration it disburses as the common paymaster and/or payments in lieu of contributions. The common paymaster shall compute the contributions due as though it were the sole employer of the concurrently employed individuals. If the common paymaster fails to remit the quarterly contribution and wage reports, contributions due and/or payments in lieu of contributions, in whole or in part, it shall remain liable for submitting the quarterly contribution and wage reports and the full amount of the unpaid portion of the contributions due and/or payments in lieu of contributions. In addition, each of the related corporations using the common paymaster shall be jointly and severally liable for submitting quarterly contribution and wage reports, its share of the contributions due and/or payments in lieu of contributions, penalties, interest and surcharges which are not submitted and/or paid by the common paymaster. All contributions due, payments in lieu of contributions, penalties, interest and surcharges which are not timely paid to the division under a common paymaster arrangement shall be subject to the collection provisions of this chapter.

(2) For the purposes of this subsection, "concurrent employment" means the simultaneous existence of an employment relationship between an individual and two or more related corporations for any calendar quarter in which employees are compensated through a common paymaster which is one of the related corporations, those corporations shall be considered one employing unit and be subject to the provisions of this chapter.

(3) For the purposes of this subsection, "related corporations" means that corporations shall be considered related corporations for an entire calendar quarter if they satisfy any one of the following tests at any time during the calendar quarter:

(a) The corporations are members of a "controlled group of corporations". The term "controlled group of corporations" means:

a. Two or more corporations connected through stock ownership with a common parent corporation, if the parent corporation owns stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote or at least fifty percent of the total value of shares of all classes of stock of each of the other corporations; or

b. Two or more corporations, if five or less persons who are individuals, estates or trusts own stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote or at least fifty percent of the total value of shares of all classes of stock of each of the other corporations; or

(b) In the case of corporations which do not issue stock, at least fifty percent of the members of one corporation's board of directors are members of the board of directors of the other corporations; or

(c) At least fifty percent of one corporation's officers are concurrently officers of the other corporations; or

(d) At least thirty percent of one corporation's employees are concurrently employees of the other corporations.

**288.100. EXPERIENCE RATING — EMPLOYER ACCOUNTS, CREDITS AND CHARGES. — 1.**

(1) The division shall maintain a separate account for each employer which is paying contributions, and shall credit each employer's account with all contributions which each employer has paid. A separate account shall be maintained for each employer making payments in lieu of contributions to which shall be credited all such payments made. The account shall also show payments due as provided in section 288.090. The division may close and cancel such separate account after a period of four consecutive calendar years during which such employer has had no employment in this state subject to contributions. Nothing in this law shall be construed to grant any employer or individuals in the employer's service prior claims or rights to the amounts paid by the employer into the fund either on the employer's own behalf or on behalf of such individuals. Except as provided in subdivision (4) of this subsection, regular benefits and that portion of extended benefits not reimbursed by the federal government paid to an eligible individual shall be charged against the accounts of the individual's base period employers who are paying contributions subject to the provisions of subdivision (4) of subsection 3 of section 288.090. With respect to initial claims filed after December 31, 1984, for benefits paid to an individual based on wages paid by one or more employers in the base period of the claim, the amount chargeable to each employer shall be obtained by multiplying the benefits paid by a ratio obtained by dividing the base period wages from such employer by the total wages appearing in the base period. Except as provided in [paragraph (a) of] this subdivision, the maximum amount of extended benefits paid to an individual and charged against the account of any employer shall not exceed one-half of the product obtained by multiplying the benefits paid by a ratio obtained by dividing the base period wages from such employer by the total wages appearing in the base period.

[(a)] The provisions of subdivision (1) of this subsection notwithstanding, with respect to weeks of unemployment beginning after December 31, 1978, the maximum amount of extended benefits paid to an individual and charged against the account of an employer which is an employer pursuant to subdivision (3) of subsection 1 of section 288.032 and which is paying contributions pursuant to subsections 1 and 2 of section 288.090 shall not exceed the calculated entitlement for the extended benefit claim based upon the wages appearing within the base period of the extended benefit claim.

(2) Beginning as of June 30, 1951, and as of June thirtieth of each year thereafter, any unassigned surplus in the unemployment compensation fund which is five hundred thousand dollars or more in excess of five-tenths of one percent of the total taxable wages paid by all employers for the preceding calendar year as shown on the division's records on such June thirtieth shall be credited on a pro rata basis to all employer accounts having a credit balance in the same ratio that the balance in each such account bears to the total of the credit balances subject to use

for rate calculation purposes for the following year in all such accounts on the same date. As used in this subdivision, the term "unassigned surplus" means the amount by which the total cash balance in the unemployment compensation fund exceeds a sum equal to the total of all employer credit account balances. The amount thus prorated to each separate employer's account shall for tax rating purposes be considered the same as contributions paid by the employer and credited to the employer's account for the period preceding the calculation date except that no such amount can be credited against any contributions due or that may thereafter become due from such employer.

(3) At the conclusion of each calendar quarter the division shall, within thirty days, notify each employer by mail of the benefits paid to each claimant by week as determined by the division which have been charged to such employer's account subsequent to the last notice.

(4) (a) No benefits based on wages paid for services performed prior to the date of any act for which a claimant is disqualified pursuant to section 288.050 shall be chargeable to any employer directly involved in such disqualifying act.

(b) In the event the deputy has in due course determined pursuant to paragraph (a) of subdivision (1) of subsection 1 of section 288.050 that a claimant quit his or her work with an employer for the purpose of accepting a more remunerative job with another employer which the claimant did accept and earn some wages therein, no benefits based on wages paid prior to the date of the quit shall be chargeable to the employer the claimant quit.

(c) In the event the deputy has in due course determined pursuant to paragraph (b) of subdivision (1) of subsection 1 of section 288.050 that a claimant quit temporary work in employment with an employer to return to the claimant's regular employer, then, only for the purpose of charging base period employers, all of the wages paid by the employer who furnished the temporary employment shall be combined with the wages actually paid by the regular employer as if all such wages had been actually paid by the regular employer. Further, charges for benefits based on wages paid for part-time work shall be removed from the account of the employer furnishing such part-time work if that employer continued to employ the individual claiming such benefits on a regular recurring basis each week of the claimant's claim to at least the same extent that the employer had previously employed the claimant and so informs the division within thirty days from the date of notice of benefit charges.

(d) No charge shall be made against an employer's account in respect to benefits paid an individual if the gross amount of wages paid by such employer to such individual is four hundred dollars or less during the individual's base period on which the individual's benefit payments are based. Further, no charge shall be made against any employer's account in respect to benefits paid any individual unless such individual was in employment with respect to such employer longer than a probationary period of twenty-eight days, if such probationary period of employment has been reported to the division as required by regulation.

(e) In the event the deputy has in due course determined pursuant to paragraph (c) of subdivision (1) of subsection 1 of section 288.050 that a claimant is not disqualified, no benefits based on wages paid for work prior to the date of the quit shall be chargeable to the employer the claimant quit.

**(f) In the event the deputy has in due course determined under paragraph (e) of subdivision (1) of subsection 1 of section 288.050 that a claimant is not disqualified, no benefits based on wages paid for work prior to the date of the quit shall be chargeable to the employer the claimant quit.**

(g) Nothing in paragraph (b), (c), (d) [or] , (e), or (f) of this subdivision shall in any way affect the benefit amount, duration of benefits or the wage credits of the claimant.

2. The division may prescribe regulations for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account.

3. The division may by regulation provide for the compilation and publication of such data as may be necessary to show the amounts of benefits not charged to any individual employer's account classified by reason no such charge was made and to show the types and amounts of transactions affecting the unemployment compensation fund.

**324.008. NONRESIDENT MILITARY SPOUSE, TEMPORARY COURTESY LICENSE TO BE ISSUED UPON TRANSFER OF ACTIVE DUTY MILITARY SPOUSE, WHEN — RULEMAKING AUTHORITY. — 1.** As used in this section, "nonresident military spouse" means a nonresident spouse of an active duty member of the armed forces of the United States who has been transferred or is scheduled to be transferred to the state of Missouri, is domiciled in the state of Missouri, or has moved to the state of Missouri on a permanent change-of-station basis.

2. Except as provided in subsection 6 of this section and notwithstanding any other provision of law, any agency of this state or board established under state law for the regulation of occupations and professions in this state shall, with respect to such occupation or profession that it regulates, by rule establish criteria for the issuance of a temporary courtesy license to a nonresident spouse of an active duty member of the military who is transferred to this state in the course of the member's military duty, so that, on a temporary basis, the nonresident military spouse may lawfully practice his or her occupation or profession in this state.

3. Notwithstanding provisions to the contrary, a nonresident military spouse shall receive a temporary courtesy license under subsection 2 of this section if, at the time of application, the nonresident military spouse:

(1) Holds a current license or certificate in another state, district, or territory of the United States with licensure requirements that the appropriate regulatory board or agency determines are equivalent to those established under Missouri law for that occupation or profession;

(2) Was engaged in the active practice of the occupation or profession for which the nonresident military spouse seeks a temporary license or certificate in a state, district, or territory of the United States for at least two of the five years immediately preceding the date of application under this section;

(3) Has not committed an act in any jurisdiction that would have constituted grounds for the refusal, suspension, or revocation of a license or certificate to practice that occupation or profession under Missouri law at the time the act was committed;

(4) Has not been disciplined by a licensing or credentialing entity in another jurisdiction and is not the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing or credentialing entity in another jurisdiction;

(5) Authorizes the appropriate board or agency to conduct a criminal background check and pay for any costs associated with such background check;

(6) Pays any fees required by the appropriate board or agency for that occupation or profession; and

(7) Complies with other requirements as provided by the board.

4. Relevant full-time experience in the discharge of official duties in the military service or an agency of the federal government shall be credited in the counting of years of practice under subdivision (2) of subsection 3 of this section.

5. A temporary courtesy license or certificate issued under this section is valid for one hundred eighty days and may be extended at the discretion of the applicable regulatory board or agency for another one hundred eighty days on application of the holder of the temporary courtesy license or certificate.

6. This section shall not apply to the practice of law or the regulation of attorneys.



7. The appropriate board or agency shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2011, shall be invalid and void.

Approved July 14, 2011

## HB 137 [SS SCS HB 137]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Repeals the authority of certain state university boards to convey or transfer property without authorization from the General Assembly and authorizes the Governor to convey certain state properties**

AN ACT to repeal section 37.005, RSMo, and to enact in lieu thereof twenty-five new sections relating to the transfer of property, with an emergency clause.

### SECTION

- A. Enacting clause.
- 37.005. Powers and duties, generally.
  - 1. Conveyance of Algoa Correctional Center property in Jefferson City.
  - 2. Conveyance of Boonville Correctional Center property in Boonville.
  - 3. Conveyance of Western Reception and Diagnostic Correctional Center property in St. Joseph.
  - 4. Conveyance of Central Missouri Correctional Center property in Jefferson City.
  - 5. Conveyance of Farmington Correctional Center property in Farmington.
  - 6. Conveyance of state property located in Farmington.
  - 7. Conveyance of Fulton Reception and Diagnostic Correctional Center property in Fulton.
  - 8. Conveyance of Maryville Treatment Center property in Maryville.
  - 9. Conveyance of Eastern Reception Diagnostic Correction Center property in Bonne Terre.
  - 10. Conveyance of Missouri Eastern Correctional Center property in Pacific.
  - 11. Conveyance of South Central Correctional Center property in Licking.
  - 12. Conveyance of Potosi Correctional Center property in Potosi.
  - 13. Conveyance of Chillicothe Correctional Center property in Chillicothe.
  - 14. Conveyance of Tipton Correctional Center property in Tipton.
  - 15. Conveyance of Women's Eastern Reception and Diagnostic Center property in Vandalia.
  - 16. Conveyance of Moberly Correctional Center property in Moberly.
  - 17. Conveyance of St. Francois County Correctional Facility property in Farmington to St. Francois County.
  - 18. Conveyance of Adrians Island property in Cole County to Jefferson City.
  - 19. Permanent levee easement on Church Farm property in Cole County to be conveyed to the Cole Junction Levee District.
  - 20. Permanent pipeline easement on Moberly Correctional Center property in Randolph County to be conveyed to the Panhandle Eastern Pipeline Company.
  - 21. Conveyance of South East Missouri Mental Health Center property in Farmington to the Missouri Highway and Transportation Commission.
  - 22. Corrected conveyance language for a 2009 conveyance authorization for South East Missouri Mental Health Center property in Farmington.
  - 23. Conveyance of National Guard property in Centertown.
  - 24. Permanent drainage easement on certain state property in Joplin.
- B. Emergency clause.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Section 37.005, RSMo, is repealed and twenty-five new sections enacted in lieu thereof, to be known as sections 37.005, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, and 24, to read as follows:

**37.005. POWERS AND DUTIES, GENERALLY.** — 1. Except as provided herein, the office of administration shall be continued as set forth in house bill 384, seventy-sixth general assembly and shall be considered as a department within the meaning used in the Omnibus State Reorganization Act of 1974. The commissioner of administration shall appoint directors of all major divisions within the office of administration.

2. The commissioner of administration shall be a member of the governmental emergency fund committee as ex officio comptroller and the director of the department of revenue shall be a member in place of the chief of the planning and construction division.

3. The office of administration is designated the "Missouri State Agency for Surplus Property" as required by Public Law 152, eighty-first Congress as amended, and related laws for disposal of surplus federal property. All the powers, duties and functions vested by sections 37.075 and 37.080, and others, are transferred by type I transfer to the office of administration as well as all property and personnel related to the duties. The commissioner shall integrate the program of disposal of federal surplus property with the processes of disposal of state surplus property to provide economical and improved service to state and local agencies of government. The governor shall fix the amount of bond required by section 37.080. All employees transferred shall be covered by the provisions of chapter 36 and the Omnibus State Reorganization Act of 1974.

4. The commissioner of administration shall replace the director of revenue as a member of the board of fund commissioners and assume all duties and responsibilities assigned to the director of revenue by sections 33.300 to 33.540 relating to duties as a member of the board and matters relating to bonds and bond coupons.

5. All the powers, duties and functions of the administrative services section, section 33.580 and others, are transferred by a type I transfer to the office of administration and the administrative services section is abolished.

6. The commissioner of administration shall, in addition to his or her other duties, cause to be prepared a comprehensive plan of the state's field operations, buildings owned or rented and the communications systems of state agencies. Such a plan shall place priority on improved availability of services throughout the state, consolidation of space occupancy and economy in operations.

7. The commissioner of administration shall from time to time examine the space needs of the agencies of state government and space available and shall, with the approval of the board of public buildings, assign and reassign space in property owned, leased or otherwise controlled by the state. Any other law to the contrary notwithstanding, upon a determination by the commissioner that all or part of any property is in excess of the needs of any state agency, the commissioner may lease such property to a private or government entity. Any revenue received from the lease of such property shall be deposited into the fund or funds from which moneys for rent, operations or purchase have been appropriated. The commissioner shall establish by rule the procedures for leasing excess property.

8. The commissioner of administration is hereby authorized to coordinate and control the acquisition and use of electronic data processing (EDP) and automatic data processing (ADP) in the executive branch of state government. For this purpose, the office of administration will have authority to:

(1) Develop and implement a long-range computer facilities plan for the use of EDP and ADP in Missouri state government. Such plan may cover, but is not limited to, operational standards, standards for the establishment, function and management of service centers, coordination of the data processing education, and planning standards for application development and implementation;

(2) Approve all additions and deletions of EDP and ADP hardware, software, and support services, and service centers;

(3) Establish standards for the development of annual data processing application plans for each of the service centers. These standards shall include review of post-implementation audits. These annual plans shall be on file in the office of administration and shall be the basis for equipment approval requests;

(4) Review of all state EDP and ADP applications to assure conformance with the state information systems plan, and the information systems plans of state agencies and service centers;

(5) Establish procurement procedures for EDP and ADP hardware, software, and support service;

(6) Establish a charging system to be used by all service centers when performing work for any agency;

(7) Establish procedures for the receipt of service center charges and payments for operation of the service centers. The commissioner shall maintain a complete inventory of all state-owned or -leased EDP and ADP equipment, and annually submit a report to the general assembly which shall include starting and ending EDP and ADP costs for the fiscal year previously ended, and the reasons for major increases or variances between starting and ending costs. The commissioner shall also adopt, after public hearing, rules and regulations designed to protect the rights of privacy of the citizens of this state and the confidentiality of information contained in computer tapes or other storage devices to the maximum extent possible consistent with the efficient operation of the office of administration and contracting state agencies.

9. Except as provided in subsection 12 of this section, the fee title to all real property now owned or hereafter acquired by the state of Missouri, or any department, division, commission, board or agency of state government, other than real property owned or possessed by the state highways and transportation commission, conservation commission, state department of natural resources, and the University of Missouri, shall on May 2, 1974, vest in the governor. The governor may not convey or otherwise transfer the title to such real property, unless such conveyance or transfer is first authorized by an act of the general assembly. The provisions of this subsection requiring authorization of a conveyance or transfer by an act of the general assembly shall not, however, apply to the granting or conveyance of an easement to any rural electric cooperative as defined in chapter 394, municipal corporation, quasi-governmental corporation owning or operating a public utility, or a public utility, except railroads, as defined in chapter 386. The governor, with the approval of the board of public buildings, may, upon the request of any state department, agency, board or commission not otherwise being empowered to make its own transfer or conveyance of any land belonging to the state of Missouri which is under the control and custody of such department, agency, board or commission, grant or convey without further legislative action, for such consideration as may be agreed upon, easements across, over, upon or under any such state land to any rural electric cooperative, as governed in chapter 394, municipal corporation, or quasi-governmental corporation owning or operating a public utility, or a public utility, except railroad, as defined in chapter 386. The easement shall be for the purpose of promoting the general health, welfare and safety of the public and shall include the right of ingress or egress for the purpose of constructing, maintaining or removing any pipeline, power line, sewer or other similar public utility installation or any equipment or appurtenances necessary to the operation thereof, except that railroad as defined in chapter 386 shall not be included in the provisions of this subsection unless such conveyance or transfer is first authorized by an act of the general assembly. The easement shall be for such consideration as may be agreed upon by the parties and approved by the board of public buildings. The attorney general shall approve the form of the instrument of conveyance. The commissioner of administration shall prepare management plans for such properties in the manner set out in subsection 7 of this section.

10. The commissioner of administration shall administer a revolving "Administrative Trust Fund" which shall be established by the state treasurer which shall be funded annually by

appropriation and which shall contain moneys transferred or paid to the office of administration in return for goods and services provided by the office of administration to any governmental entity or to the public. The state treasurer shall be the custodian of the fund, and shall approve disbursements from the fund for the purchase of goods or services at the request of the commissioner of administration or the commissioner's designee. The provisions of section 33.080 notwithstanding, moneys in the fund shall not lapse, unless and then only to the extent to which the unencumbered balance at the close of any fiscal year exceeds one-eighth of the total amount appropriated, paid, or transferred to the fund during such fiscal year, and upon approval of the oversight division of the joint committee on legislative research. The commissioner shall prepare an annual report of all receipts and expenditures from the fund.

11. All the powers, duties and functions of the department of community affairs relating to statewide planning are transferred by type I transfer to the office of administration.

12. The titles which are vested in the governor by or pursuant to this section to real property assigned to any of the educational institutions referred to in section 174.020 on June 15, 1983, are hereby transferred to and vested in the board of regents of the respective educational institutions, and the titles to real property and other interests therein hereafter acquired by or for the use of any such educational institution, notwithstanding provisions of this section, shall vest in the board of regents of the educational institution. The board of regents may not convey or otherwise transfer the title to or other interest in such real property unless the conveyance or transfer is first authorized by an act of the general assembly, except as provided in section 174.042, and except that the board of regents may grant easements over, in and under such real property without further legislative action.

13. Notwithstanding any provision of subsection 12 of this section to the contrary, the board of governors of Missouri Western State University[, Central Missouri State University, Missouri State University, or Missouri Southern State University; or the board of regents of Southeast Missouri State University, Northwest Missouri State University, or Harris-Stowe State University; or the board of curators of Lincoln University] may convey or otherwise transfer **for fair market value**, except in fee simple, the title to or other interest in such real property without authorization by an act of the general assembly. The provisions of this subsection shall expire August 28, [2011] **2014**.

14. All county sports complex authorities, and any sports complex authority located in a city not within a county, in existence on August 13, 1986, and organized under the provisions of sections 64.920 to 64.950, are assigned to the office of administration, but such authorities shall not be subject to the provisions of subdivision (4) of subsection 6 of section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo, as amended.

15. All powers, duties, and functions vested in the administrative hearing commission, sections 621.015 to 621.205 and others, are transferred to the office of administration by a type III transfer.

**SECTION 1. CONVEYANCE OF ALGOA CORRECTIONAL CENTER PROPERTY IN JEFFERSON CITY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the Algoa Correctional Center in Jefferson City, Cole County, Missouri, described as follows:**

**TRACT A**

**Part of U.S. PRIVATE SURVEY NO. 2611, Township 44 North, Range 10 West, Cole County, Missouri, more particularly described as follows:**

**From the northwest corner of the Northeast Fractional Quarter of Section 20, Township 44 North, Range 10 West; thence S86°50'10"E, along the Section Line,**

1045.00 feet to the southeast corner of Lot No. 5 of the Plat of Ewing Farm, a subdivision of record in Plat Book 1, page 69, Cole County Recorder's Office and said corner being the POINT OF BEGINNING for this description; thence N0°16'00"E, along the east line of said Lot No. 5, 1758.90 feet to a point on the south bank of the Missouri River, said point being the northwest corner of U.S. Private Survey No. 2611; thence Easterly, along the north line of said U.S. Private Survey No. 2611, and the south bank of the Missouri River, the following courses: N73°08'46"E, 503.97 feet; thence N83°20'48"E, 1039.99 feet to the northwest corner of the original Section 16, Township 44 North, Range 10 West; thence leaving the north line of said U.S. Private Survey No. 2611 and the south bank of the Missouri River, S1°02'02"W, along the original line between Sections 16 and 17, 683.12 feet to the northwest corner of the Southwest Quarter of the Southwest Quarter of said original Section 16 and said corner being the southwesterly corner of a tract described by deed of record in Book 277, page 458, Cole County Recorder's Office; thence Easterly along the southerly boundary of said tract described in Book 277, page 458, the following courses: S88°39'30"E, along the Quarter, Quarter Section Line, 108.50 feet; thence S51°39'48"E, 419.63 feet; thence S79°38'25"E, 186.02 feet to the most northerly corner of a tract described by deed of record in Book 409, page 749, Cole County Recorder's Office; thence leaving the southerly boundary of said tract described in Book 277, page 458, S18°17'34"W, along the westerly line of said tract described in Book 409, page 749, 136.06 feet to the southwesterly corner thereof; thence S84°00'29"E, along the southerly line of said tract described in Book 409, page 749, 144.32 feet to the most easterly corner thereof and said corner being the southeasterly corner of a tract described by deed of record in Book 406, page 897, Cole County Recorder's Office; thence N22°35'50"E, along the easterly line of said tract described in Book 406, page 897, 126.65 feet to the northeasterly corner thereof and said corner being a point on the southerly boundary of the aforesaid tract described by deed of record in Book 277, page 458; thence S79°38'25"E, along the southerly boundary of said tract described in Book 277, page 458, 40.46 feet; thence S74°16'57"E, along the southerly boundary of said tract described in Book 277, page 458, 268.96 feet to a point on the west line of a 50 foot wide street right-of-way known as Elm Street, as per plat of Ewings Addition to the Town of Osage City; thence S2°41'10"W, along the west line of said Elm Street right-of-way, 984.82 feet to a point on the north line of the original Section 21, Township 44 North, Range 10 West; thence N88°38'32"W, along the original Section Line, 17.96 feet to a point on the west line of the 60 foot wide street right-of-way known as Elm Street, as per plat of McCurnan's Addition to the Town of Osage City; thence S6°42'18"W, along the west line of said Elm Street right-of-way, 433.32 feet to a point on the northerly line of the 100 foot wide right-of-way of the Missouri Pacific Railroad; thence along the northerly line of said Missouri Pacific Railroad right-of-way, the following courses: N81°16'17"W, 418.36 feet; thence N82°10'01"W, 181.31 feet; thence Westerly, on a curve to the left, having a radius of 1970.53 feet, an arc distance of 1645.67 feet, (the chord of said curve being S72°08'01"W, 1598.26 feet); thence S46°43'48"W, 151.10 feet; thence S45°59'01"W, 342.92 feet to a point on the west line of the aforesaid U.S. Private Survey No. 2611, being the east line of the Northeast Fractional Quarter of Section 20, Township 44 North, Range 10 West; thence leaving the northerly line of said Missouri Pacific Railroad right-of-way, N0°16'00"E, along the west line of said U.S. Private Survey No. 2611, 1218.93 feet to the POINT OF BEGINNING.

Containing 125.44 Acres.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 2. CONVEYANCE OF BOONVILLE CORRECTIONAL CENTER PROPERTY IN BOONVILLE. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the Boonville Correctional Center in Boonville, Cooper County, Missouri, described as follows:

Tract A (properties lying north of Boonville & Rocheport Public Rd.):

Unplatted and vacant land in the east half of the northeast quarter of Section 36, T49N, R17W, Cooper County, Missouri, being owned by the State of Missouri per Deed recorded in Book 23, Page 448, lying both east of and abutting and north of and abutting both the east and north lines of an 83.18 acre tract described by a Quit-Claim Deed recorded in Book 162, Page 208 and shown by Surveyor's Record Book 5, Page 219 of the Cooper County records. The west part of said 83.18 acre tract is further subdivided as Boonville Industrial Park by Plat Book 5, Page 271. Said unplatted and vacant land being more particularly described as follows:

Beginning at the northwest corner of Lot 1, Boonville Industrial Park, shown by said subdivision plat and by said survey recorded in Surveyor's Record Book 5, Page 219 as being S5°-00'-00"E 82.03 feet and S82°-32'-47"W, along the north line of said section, 1954.21 feet from the northeast corner of said Section 36; thence, following the lines of said subdivision plat: N85°-00'-00"E 158.46 feet; S0°-40'-17"E 51.00 feet; S88°-08'-52"E 262.75 feet; N78°-30'-00"E 434.94 feet; N2°-23'-30"W 33.00 feet; N80°-19'-48"E 597.42 feet; S11°-09'-53"E 200.74 feet; S7°-55'-12"E 98.98 feet; S69°-32'-29"W 215.33 feet; S45°-25'-18"W 60.86 feet; S24°-51'-03"W 66.36 feet; S2°-44'-59"E 39.63 feet; S24°-03'-26"E 36.71 feet; S40°-40'-59"E 71.49 feet; S42°-13'-19"E 115.91 feet; S38°-36'-17"E 87.13 feet; S38°-24'-35"E 60.03 feet; S22°-01'-08"E 44.24 feet; and S2°-03'-35"W 30.00 feet to the southeast corner of Lot 4 of said subdivision plat; thence, leaving the lines of said subdivision plat and continuing along the lines of said survey, S2°-03'-35"E 20.23 feet; S6°-57'-21"E 50.93 feet; S14°-32'-44"E 74.40 feet; S25°-35'-35"E 170.00 feet; S4°-39'-14"E 28.04 feet; and N87°-04'-23"E 389.8 feet, more or less, to the east line of said Section 36; thence, leaving the lines of said survey, Northerly, along last said Section Line, 1276 feet, more or less, to the northeast corner of said Section; thence S84°-32'-47"W, along the north line of said Section, 1594.8 feet, more or less, to the east line of Tract 2 of the two tracts described by a Deed recorded in Book 350, Page 605; thence, following the lines of said Tract 2: S1°-38'-25"W 79 feet, more or less, to the southeast corner thereof; N85°-40'-40"W 201.21 feet; S1°-38'-40"W 10.25 feet; and S88°-10'-00"W 153 feet, more or less, to a line perpendicular to first said north line of said Lot 1; thence S5°-00'-00"E 25.33 feet to the point of beginning and containing 18.7 acres, more or less.

This tract is subject to easements and restrictions of record, including any dedicated right-of-way of Morgan Street as implied on said subdivision plat and

indicated by an unrecorded survey of Tract 2 of the two tracts described by Deed recorded in Book 350, Page 605.

ALSO, unplatted and vacant land being that part of the northwest quarter of Section 31, T49N, R16W, Cooper County, Missouri, being owned by the State of Missouri per Deed recorded in Book 23, Page 448, lying south of the Missouri River, and lying both east of and abutting and north of and abutting both the easternmost and north lines of an 83.18 acre tract described by a Quit-Claim Deed recorded in Book 162, Page 208 and shown by a survey recorded in Surveyor's Record Book 5, Page 219, and lying north of the Boonville and Rocheport Public Road. EXCEPTING THEREFROM the Missouri Pacific Railroad right-of-way. Said unplatted and vacant land containing 92 acres, more or less, and including the west part of a 43.7702 acre tract shown by Surveyor's Record Book 7, Page 237, and a 24.552 acre tract shown by Surveyor's Record Book 7, Page 30.

ALSO, unplatted and vacant land being the northeast quarter of Section 31, T49N, R16W, Cooper County, Missouri, being owned by the State of Missouri per Deed recorded in Book 23, Page 448, lying south of the Missouri Pacific Railroad right-of-way and west of Cole's Branch, and lying north of the Boonville and Rocheport Public Road, and containing 63 acres, more or less, including the east part of a 43.7702 acre tract shown by Surveyor's Record Book 7, Page 237. Said Branch (aka Fort Field Branch) being the west line of an adjoining 43.45 acre tract described by a Warranty Deed recorded in Book 137, Page 23, and the northern part of said Cole's Branch being shown by a 20 foot offset line to the west from said Branch by Surveyor's Record Book 7, Page 237.

The three tracts of land comprising Tract A as previously described, all lying north of the Boonville and Rocheport Public Road in Sections 36-49-17 and 31-49-16, contain a total of 174 acres, more or less.

Tract B (properties lying south of Boonville & Rocheport Public Rd.): Unplatted and vacant land being the west part of the southwest quarter, and the west part of the northwest quarter lying south the Boonville and Rocheport Public Road, all in Section 31, T49N, R16W, Cooper County, Missouri, being owned by the State of Missouri per Deed recorded in Book 23, Page 448, and all lying west of and abutting the west line of a 188.75 acre tract described by a Deed of Personal Representative recorded in Book 159, Page 485. Said unplatted and vacant land containing 129 acres, more or less.

ALSO, unplatted and vacant land in the north half of the northeast quarter of Section 1, T48N, R17W, Cooper County, Missouri, being the south part of that tract described by a Quit-Claim Deed recorded in Book 162, Page 208 and Page 412, being shown as the south part of a 90.69 acre survey in Surveyor's Record Book 5, Page 222, lying both north of and abutting Tract 1, and east of and abutting Tract 2 of a two-tract survey shown by Surveyor's Record Book 5, Page 257, both of the Cooper County records. Said unplatted and vacant land containing 28 acres, more or less.

This tract is subject to easements and restrictions of record, including a north-south sanitary sewer with no known easement.

ALSO, unplatted and vacant land located in the southeast part of the southeast quarter of Section 36, T49N, R17W, Cooper County, Missouri, being the north part of the 90.69 acre tract described by a Quit-Claim Deed recorded in Book 162, Page 208 and Page 412; and lying east of and abutting the east boundary of Trout Dale Subdivision; and lying east of and abutting the east boundary of a tract described by a General Warranty Deed recorded in Book 399, Pages 179 to 181 and shown by an unrecorded plat of Warnhoff Subdivision by LS 1957, dated April, 2004; and lying east of and abutting a 0.25 acre tract described by a Warranty Deed recorded in Book 440, Page 31; and lying east of and abutting the east boundary of Boonville Memorial Gardens Cemetery as shown by Surveyor's Record Book 5, Page 242; Said unplatted and vacant land containing 61 acres, more or less.

This tract is subject to a stormwater drainage easement to the City of Boonville, 30 feet wide by 100 feet in length at the west side of the above described tract and recorded in Book 585, Page 442.

ALSO, unplatted and vacant land located in the north half of the southeast quarter, and in the south half of the northeast quarter of Section 36, T49N, R17W lying south of the Boonville and Rocheport Public Road, Cooper County, Missouri, being owned by the State of Missouri per Deed recorded in Book 23, Page 448, lying north of and abutting the 90.69 acre tract described by a Quit-Claim Deed recorded in Book 162, Page 208 and Page 412 and shown in Surveyor's Record Book 5, Page 222; and lying north of and abutting the north line of that tract described by a General Warranty Deed recorded in Book 242, Page 397; and lying east of and abutting the east line of that tract described by a Special Warranty Deed recorded in Book 150, Page 358, EXCEPTING THEREFROM, an 8.265 acre tract of land lying south of the Boonville and Rocheport Public Road and shown by an unrecorded survey by Corporate LS 27D displayed as an unrecorded "As Built" document of the National Guard Armory by Architect A-3088, dated December 3, 1990, and described as follows: Beginning at the northeast corner of said 8.265 acre tract, being S30°-55'-25"W on a direct line, 2533.11 feet from the northeast corner of said Section 36; thence S4°-00'-10"E 604.05 feet; thence N83°-02'-10"W 599.07 feet to a line 50 feet east of and parallel with the southerly extension of Al Bersted Drive; thence N4°-00'-10"W 607.74 feet to the south right-of-way line of said Public Road; thence, following said south right-of-way line: S87°-31'-16"E 40.29 feet; S85°-01'-22"E 203.27 feet; and S80°-48'-54"E 356.73 feet to the point of beginning, said point of beginning being Westerly along the north line of said Section, 1450.73 feet, and S4°-00'-10"E, 2040.20 feet from said northeast section corner. EXCEPTING THEREFROM, a 6.0 acre tract of land in the southwest quarter of the northeast quarter, and in the northeast quarter of the southeast quarter of the northwest quarter of Section 36, T49N, R17W, Cooper County, Missouri, lying south of the Boonville and Rocheport Public Road, described as follows: Beginning on the south right-of-way line of the Boonville and Rocheport Public Road at a line 50 feet west of and parallel with the southerly extension of the centerline of Al Bersted Drive, being N87°-31'-16"W along said south right-of-way line, 100.64 feet from the northwest corner of an 8.265 acre tract of land lying south of the Boonville and Rocheport Public Road and shown by an unrecorded survey by Corporate LS 27D displayed as an unrecorded "As Built" document of the

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National Guard Armory by Architect A-3088, dated December 3, 1990, and being S43°-40'-00''W on a direct line, 2892.51 feet from the northeast corner of said Section 36; thence S4°-00'-10''E 400.00 feet; thence S85°-59'-50''W 549 feet, more or less, to the east line of a 14 acre tract being owned by the City of Boonville, Missouri per Special Warranty Deed recorded in Book 150, Page 358; thence, following the eastern lines of said tract: Northerly 249.6 feet, more or less; Westerly 145 feet; and Northerly 175 feet to the south right-of-way line of Locust Street having a total right-of-way of 80 feet; thence, leaving said eastern lines, Easterly, along said right-of-way line, 694 feet, more or less, to the point of beginning and containing 6.0 acres. Said point of beginning being Westerly along the north line of said Section, 2138.52 feet, and S4°-00'-10''E 1893.78 feet from said northeast section corner. Last said unplatted and vacant land containing 88 acres, more or less, not including any implied right-of-way of the Boonville and Rocheport Public Road as indicated by an 83.18 acre tract described by a Quit-Claim Deed recorded in Book 162, Page 208 and shown by Surveyor's Record Book 5, Page 219, by the west part of said 83.18 acre tract further subdivided as Boonville Industrial Park by Plat Book 5, Page 271, and by an unrecorded survey by Corporate LS 27D displayed as an unrecorded "As Built" document of the National Guard Armory by Architect A-3088, dated December 3, 1990.

This tract is subject to easements and restrictions of record, including a north-south sanitary sewer with no known easement.

The four tracts of land comprising Tract B as previously described, all lying south of the Boonville and Rocheport Public Road in Section 31-49-16, in Section 36-49-17, and in Section 1-48-17, contain a total of 306 acres, more or less.

Tract C (Warden's house and dairy operation property): A tract of land in the southwest quarter of the northeast quarter, and in the northeast quarter of the southeast quarter of the northwest quarter of Section 36, T49N, R17W, Cooper County, Missouri, being owned by the State of Missouri per Deed recorded in Book 23, Page 448, lying south of Locust Street, also known as the Boonville and Rocheport Public Road and described as follows: Beginning on the south right-of-way line of the Boonville and Rocheport Public Road at a line 50 feet west of and parallel with the southerly extension of the centerline of Al Bersted Drive, being N87°-31'-16''W along said south right-of-way line, 100.64 feet from the northwest corner of an 8.265 acre tract of land lying south of the Boonville and Rocheport Public Road and shown by an unrecorded survey by Corporate LS 27D displayed as an unrecorded "As Built" document of the National Guard Armory by Architect A-3088, dated December 3, 1990, and being S43-40'-00''W on a direct line, 2892.51 feet from the northeast corner of said Section 36; thence S4°-00'-10''E 400.00 feet; thence S85°-59'-50''W 549 feet, more or less, to the east line of a 14 acre tract being owned by the City of Boonville, Missouri per Special Warranty Deed recorded in Book 150, Page 358; thence, following the eastern lines of said tract: Northerly 249.6 feet, more or less; Westerly 145 feet; and Northerly 175 feet to the south right-of-way line of Locust Street having a total right-of-way of 80 feet as indicated by a General Warranty Deed recorded in Book 158, Page 753 and stated by House Bill No. 1187 dated September 29, 1980; thence, leaving said eastern lines, Easterly, along said right-of-way line, 694 feet, more or less, to the point of beginning and containing 6.0 acres.

This tract is subject to easements and restrictions of record.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 3. CONVEYANCE OF WESTERN RECEPTION AND DIAGNOSTIC CORRECTIONAL CENTER PROPERTY IN ST. JOSEPH.** — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the Western Reception and Diagnostic Correctional Center in St. Joseph, Buchanan County, Missouri, described as follows:

**Tract A**

A Tract of land being part of the Northeast Quarter of Section 10 Township 57 North, Range 35 East, Buchanan County, Missouri, and being more particularly described as follows:

Commencing at the East Quarter corner of said Section 10 Township 57 North, Range 35 East; thence North 00°12'14" West along the East line of the Northeast Quarter of said Section 10 Township 57 North, Range 35 East a distance of 100 feet; thence South 89°50'54" East departing the East line of the Northeast Quarter of said Section 10 Township 57 North, Range 35 East a distance of 85.00 feet to the Point of Beginning said point being the intersection of the West right of way of 36th Street and the North right of way of Faraon Avenue as now established; thence North 89°50'54" West along the North right of way of Faraon Avenue a distance of 1,238.01 feet; thence North 00°12'14" West a distance of 540.82 feet; thence South 89°47'46" West departing the East back of curb of said South Drive a distance of 1,237.99 feet to a point on the West right of way of 36th Street; thence South 00°12'14" East along the West right of way of 36th Street a distance of 548.50 feet to the Point of Beginning. Containing 674,277.17 square feet or 15.48 acres more or less.

**Tract B**

A Tract of land being part of the Northeast Quarter of Section 10 Township 57 North, Range 35 East, Buchanan County, Missouri, and being more particularly described as follows:

Commencing at the Northeast Quarter of said Section 10 Township 57 North, Range 35 East; thence South 89°55'14" West along the North line of the Northeast Quarter of said Section 10 Township 57 North, Range 35 East a distance of 2,214.69 feet; thence South 00°04'46" East departing the North line of the Northeast Quarter of said Section 10 Township 57 North, Range 35 East a distance of 30.00 feet to the intersection with the South right of way of Frederick Avenue as now established and the Northerly projection of the West edge of a concrete walk said point also being the Point of Beginning; thence South 00°42'14" East departing said the South right of way of said Frederick Avenue and along said Northerly projection of the West edge of a concrete walk a distance of 226.87 feet; thence South 88°00'04" West departing the West edge of said concrete walk a distance of 242.88 feet to the point of intersection with the East back of curb of Rush Road; thence along the East back of curb of said Rush Road the following courses and distances: North 02°18'47" West a distance of

221.77 feet to a point of curvature; thence Easterly along a curve to the left, having a radius of 12.89 feet, a central angle of  $92^{\circ}14'41''$ , and a distance of 20.75 feet to a point of tangency with the South right of way of said Frederick Avenue; thence North  $89^{\circ}55'14''$  East along the south right of way of said Frederick Avenue a distance of 236.04 feet to the Point of Beginning. Containing 56,814.67 square feet or 1.30 acres more or less.

**Tract C**

A Tract of land being part of the Northeast Quarter of Section 10 Township 57 North, Range 35 East, Buchanan County, Missouri, and being more particularly described as follows:

Commencing at the Northeast Quarter of said Section 10 Township 57 North, Range 35 East; thence South  $89^{\circ}55'14''$  West along the North line of the Northeast Quarter of said Section 10 Township 57 North, Range 35 East a distance of 2,214.69 feet; thence South  $00^{\circ}04'46''$  East departing the North line of the Northeast Quarter of said Section 10 Township 57 North, Range 35 East a distance of 30.00 feet to the intersection with the South right of way of Frederick Avenue as now established and the Northerly projection of the West edge of a concrete walk; thence South  $00^{\circ}42'14''$  East departing said the South right of way of said Frederick Avenue and along said Northerly projection of the West edge of a concrete walk a distance of 226.87 feet to the Point of Beginning; thence continuing South  $00^{\circ}42'14''$  East along said West edge of a concrete walk a distance of 226.87 feet to the intersection with an existing wood plank fence; thence along said existing wood plank fence the following courses and distances: South  $88^{\circ}01'45''$  West a distance of 17.41 feet; thence South  $00^{\circ}20'43''$  East a distance of 120.24 feet; thence South  $39^{\circ}46'21''$  West a distance of 55.86 feet; thence North  $89^{\circ}54'15''$  West departing said existing wood plank fence a distance of 182.73 feet to the point of intersection with the East back of curb of Rush Road; thence North  $02^{\circ}18'47''$  West along the East back of curb of said Rush Road a distance of 202.60 feet; thence North  $88^{\circ}00'04''$  East departing the East back of curb of said Rush Road a distance of 242.88 feet to the Point of Beginning. Containing 45,953.77 square feet or 1.06 acres more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 4. CONVEYANCE OF CENTRAL MISSOURI CORRECTIONAL CENTER PROPERTY IN JEFFERSON CITY.** — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the Central Missouri Correctional Center in Jefferson City, Cole County, Missouri, described as follows:

**TRACT 3-B**

Part of the Southeast Quarter of Section 13, Township 45 North, Range 13 West, Cole County, Missouri, more particularly described as follows:

From the Center of said Section 13; thence  $S88^{\circ}18'32''E$ , along the Quarter Section Line, 277.59 feet to a point on the southerly line of the 100 foot wide Missouri Pacific Railroad right-of-way; thence  $S49^{\circ}23'55''E$ , along the southerly

line of said Railroad Right-of-way, 191.44 feet to the center of an existing field road, being a corner on the eastern boundary of the property described by deed of record in Book 495, page 449, Cole County Recorder's Office and the POINT OF BEGINNING for this description; thence continuing along said Railroad Right-of-way line the following courses: S49°23'55"E, 197.17 feet; thence southeasterly, on a spiral curve to the left, a spiral distance of 152.0 feet, (the chord of said spiral being S50°09'13"E, 151.96 feet); thence Southeasterly, on a simple curve to the left, having a radius of 1959.86 feet, an arc distance of 873.11 feet, (the chord of said curve being S64°24'40"E, 865.91 feet); thence Southeasterly, on a spiral curve to the left, a spiral distance of 152.0 feet, (the chord of said spiral being S78°40'07"E, 151.96 feet); thence S79°25'25"E, 122.49 feet; thence leaving the aforesaid Railroad Right-of-way line, S21°45'37"W 1041.68 feet to a point on the northerly line of the Missouri State Highway 179 Right-of-way; thence along the northerly line of said Missouri State Highway 179 Right-of-way, the following courses: N63°57'55"W, 75.04 feet; thence Westerly, on a curve to the left, having a radius of 995.40 feet, an arc distance of 465.55 feet, (the chord of said curve being, N67°35'35"W, 461.31 feet) to a point in the center of an existing field road, being the southeasterly corner of the aforesaid property described in Book 495, page 449; thence leaving the Missouri State Highway 179 Right-of-way line, along the center of said field road and the easterly boundary of said property described in Book 495, page 449, the following courses; N13°21'56"E, 534.20 feet; thence northwesterly, on a curve to the left, having a radius of 130.00 feet, an arc distance of 143.08 feet, (the chord of said curve being N18°09'54"W, 135.97 feet); thence N49°41'43"W, 399.15 feet; thence N47°46'57"W, 326.12 feet; thence northwesterly, on a curve to the right, having a radius of 125.00 feet, an arc distance of 142.57 feet, (the chord of said curve being N15°06'27"W, 134.97 feet); thence N17°34'03"E, 80.68 feet; thence northeasterly, on a curve to the right, having a radius of 270.00 feet, an arc distance of 86.87 feet, (the chord of said curve being N26°47'07"E, 86.50 feet) to the POINT OF BEGINNING. Containing 18.65 acres.

#### TRACT 3-D

Part of the Southeast Quarter of the Southeast Quarter of Section 13, Township 45 North, Range 13 West and part of the Southwest Quarter of Section 18 and part of the Northwest Quarter of Section 19, Township 45 North, Range 12 West, Cole County, Missouri, more particularly described as follows:

From the southeast corner of said Section 13; thence N1°29'15"E, along the Range Line, 60.50 feet to a point on the northerly line of the Missouri State Highway 179 Right-of-way and said point being S1°29'15"W along said Range Line, 401.95 feet from the northwest corner of Section 19, Township 45 North, Range 12 West and being the POINT OF BEGINNING for this description; thence N54°11'40"W, along said Highway 179 Right-of-way line, 654.19 feet; thence N45°56'50"E, 1716.89 feet to a point on the southerly line of the 100 foot wide Missouri Pacific Railroad Right-of-way; thence along said Railroad Right-of-way line the following courses: Southeasterly, on a simple curve to the right, having a radius of 2814.79 feet, an arc distance of 295.34 feet, (the chord of said curve being S72°05'46"E, 295.20 feet); thence Southeasterly, on a spiral curve to the right, a spiral distance of 99.14 feet, (the chord of said spiral being S68°25'20"E, 99.13 feet); thence S68°05'25"E, 790.69 feet; thence leaving the aforesaid Railroad Right-of-way line, S35°48'20"W, 1995.06 feet to a point on the

northerly line of the aforesaid Missouri State Highway 179 Right-of-way; thence N54°11'40"W, along said Highway 179 Right-of-way line, 792.66 feet to the POINT OF BEGINNING. Containing 54.51 acres.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 5. CONVEYANCE OF FARMINGTON CORRECTIONAL CENTER PROPERTY IN FARMINGTON. — 1.** The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the Farmington Correctional Center in Farmington, St. Francois County, Missouri, described as follows:

**INGRESS AND EGRESS EASEMENT**

A strip of land 30 feet wide across part of Lot 70 and 71 of United States Survey Number 2969, Township 35 North, Range 5 East, in the City of Farmington, St. Francois County, Missouri, said 30 foot strip lying 15.00 feet each side of and adjacent to the following described centerline:

From a stone marking the northwest corner of said Lot 70, also being the southwest corner of Crosswinds Plat 2 as per plat of record in Plat Book 15, page 163, St. Francois County Recorder's Office; thence S06°20'17"W, 216.36 feet; thence S57°50'37"E, 82.27 feet to the POINT OF BEGINNING for this centerline description; thence northeasterly, on a curve to the right having a radius of 246.00 feet, an arc length of 187.61 feet, (the chord of said curve being N61°05'42"E, 183.10 feet); thence N82°56'37"E, 29.02 feet; thence easterly, on a curve to the right having a radius of 350.00 feet, an arc length of 87.32 feet, (the chord of said curve being S89°54'34"E, 87.09 feet); thence S82°45'45"E, 257.95 feet; thence easterly, on a curve to the right having a radius of 400.00 feet, an arc length of 91.45 feet, (the chord of said curve being S76°12'46"E, 91.25 feet); thence S69°39'46"E, 36.75 feet; thence southeasterly, on a curve to the right having a radius of 250.00 feet, an arc length of 177.87 feet, (the chord of said curve being S49°16'50"E, 174.14 feet); thence S28°53'54"E, 29.12 feet; thence southerly, on a curve to the right having a radius of 150.00 feet, an arc length of 85.38 feet, (the chord of said curve being S12°35'32"E, 84.23 feet); thence S03°42'50"W, 143.95 feet; thence S82°45'45"E, 51.95 feet to the point of termination.

Except all that part of Lot 2 of Habitat for Humanity Subdivision, as per plat of record in Plat Book 16, page 473, St. Francois County Recorder's Office, St. Francois County, Missouri.

Except all that part of Perrine Road right-of-way.

**TRACT 1**

Part of Lot 70 of United States Survey Number 2969, Township 35 North, Range 5 East, in the City of Farmington, St. Francois, County, Missouri, more particularly described as follows:

BEGINNING at a stone marking the northwest corner of said Lot 70, also being the southwest corner of Crosswinds Plat 2 as per plat of record in Plat Book 15, page 163, St. Francois County Recorder's Office; thence S82°45'45"E, along the northerly line of said Lot 70, also being the southerly boundary of said Crosswinds Plat 2, 775.91 feet to the northwest corner of Habitat for Humanity Subdivision, as per plat of record in Plat Book 16, page 473, St. Francois County Recorder's Office; thence S07°05'05"W, along the westerly boundary of said Habitat for Humanity Subdivision, 150.00 feet to the southwesterly corner thereof; thence S31°44'48"W, 10.73 feet; thence northwesterly on a curve to the left having a radius of 250.00 feet, an arc length of 49.78 feet (the chord of said curve being N63°57'29"W, 49.70 feet); thence N69°39'46"W, 36.75 feet; thence westerly on a curve to the left having a radius of 400.00 feet, an arc length of 91.45 feet (the chord of said curve being N76°12'46"W, 91.25 feet); thence N82°45'45"W, 257.95 feet; thence westerly on a curve to the left having a radius of 350.00 feet, an arc length of 87.32 feet (the chord of said curve being N89°54'34"W, 87.09 feet); thence S82°56'37"W, 29.02 feet; thence southwesterly on a curve to the left having a radius of 246.00 feet, an arc length of 187.61 feet (the chord of said curve being S61°05'42"W, 183.10 feet); thence N57°50'37"W, 82.27 feet; thence N06°20'17"E, 216.36 feet to the point of beginning. Containing 2.67 acres.

Subject to the northerly 15 feet of a 30 foot wide Ingress and Egress Easement.

#### TRACT 2

Part of Lot 70 of United States Survey Number 2969, Township 35 North, Range 5 East, in the City of Farmington, St. Francois, County, Missouri, more particularly described as follows:

From a stone marking the northwest corner of said Lot 70, also being the southwest corner of Crosswinds Plat 2 as per plat of record in Plat Book 15, page 163, St. Francois County Recorder's Office; thence S82°45'45"E, along the northerly line of said Lot 70, also being the southerly boundary of said Crosswinds Plat 2, 775.91 feet to the northwest corner of Habitat for Humanity Subdivision, as per plat of record in Plat Book 16, page 473, St. Francois County Recorder's Office; thence S07°05'05"W, along the westerly boundary of said Habitat for Humanity Subdivision, 150.00 feet to the southwesterly corner thereof, and the POINT OF BEGINNING for this description; thence S82°45'45"E, along the southerly boundary of said Habitat for Humanity Subdivision, 167.67 feet to the southeasterly corner thereof; thence S06°25'52"W, 321.27 feet; thence N82°45'45"W, 24.78 feet; thence N03°42'50"E, 128.92 feet; thence northerly, on a curve to the left having a radius of 150.00 feet, an arc length of 85.38 feet (the chord of said curve being N12°35'32"W, 84.23 feet); thence N28°53'54"W, 29.12 feet; thence northwesterly on a curve to the left having a radius of 250.00 feet, an arc length of 128.08 feet (the chord of said curve being N43°34'33"W, 126.69 feet); thence N31°44'48"E, 10.73 feet to the point of beginning. Containing 0.44 acres.

Subject to the northeasterly 15 feet of a 30 foot wide Ingress and Egress Easement.

#### TRACT 3

Part of Lot 70 of United States Survey Number 2969, Township 35 North, Range 5 East, in the City of Farmington, St. Francois, County, Missouri, more particularly described as follows:

From a stone marking the northwest corner of said Lot 70, also being the southwest corner of Crosswinds Plat 2 as per plat of record in Plat Book 15, page 163, St. Francois County Recorder's Office; thence S82°45'45"E, along the northerly line of said Lot 70, also being the southerly boundary of said Crosswinds Plat 2, 775.91 feet to the northwest corner of Habitat for Humanity Subdivision, as per plat of record in Plat Book 16, page 473, St. Francois County Recorder's Office; thence S07°05'05"W, along the westerly boundary of said Habitat for Humanity Subdivision, 150.00 feet to the southwesterly corner thereof; thence S82°45'45"E, along the southerly boundary of said Habitat for Humanity Subdivision, 167.67 feet to the southeasterly corner thereof; thence S06°25'52"W, 321.27 feet; thence N82°45'45"W, 24.78 feet to the POINT OF BEGINNING for this description; thence N82°45'45"W, 160.55 feet; thence N17°45'13"W, 148.11 feet; thence N40°06'01"E, 190.20 feet; thence southeasterly, on a curve to the right having a radius of 250.00 feet, an arc length of 91.64 feet (the chord of said curve being S39°23'56"E, 91.12 feet); thence S28°53'54"E, 29.12 feet; thence southerly, on a curve to the right having a radius of 150.00 feet, an arc length of 85.38 feet (the chord of said curve being S12°35'32"E, 84.23 feet); thence S03°42'50"W, 128.92 feet to the point of beginning. Containing 1.03 acres.

Subject to the westerly 15 feet of a 30 foot wide Ingress and Egress Easement.

#### TRACT 4

Part of Lot 70 of United States Survey Number 2969, Township 35 North, Range 5 East, in the City of Farmington, St. Francois, County, Missouri, more particularly described as follows:

From a stone marking the northwest corner of said Lot 70, also being the southwest corner of Crosswinds Plat 2 as per plat of record in Plat Book 15, page 163, St. Francois County Recorder's Office; thence S82°45'45"E, along the northerly line of said Lot 70, also being the southerly boundary of said Crosswinds Plat 2, 775.91 feet to the northwest corner of Habitat for Humanity Subdivision, as per plat of record in Plat Book 16, page 473, St. Francois County Recorder's Office; thence S07°05'05"W, along the westerly boundary of said Habitat for Humanity Subdivision, 150.00 feet to the southwesterly corner thereof; thence S31°44'48"W, 10.73 feet to the POINT OF BEGINNING for this description; thence southeasterly, on a curve to the right having a radius of 250.00 feet, an arc length of 36.45 feet (the chord of said curve being S54°04'35"E, 36.42 feet); thence S40°06'01"W, 190.20 feet; thence N82°45'45"W, 100.00 feet; thence N19°19'50"E, 213.97 feet; thence easterly, on a curve to the right having a radius of 400.00 feet, an arc length of 44.27 feet (the chord of said curve being S72°50'00"E, 44.25 feet); thence S69°39'46"E, 36.75 feet; thence southeasterly, on a curve to the right having a radius of 250.00 feet, an arc length of 49.78 feet (the chord of said curve being S63°57'29"E, 49.70 feet) to the point of beginning. Containing 0.61 acres.

Subject to the southerly 15 feet of a 30 foot wide Ingress and Egress Easement.

**TRACT 5**

Part of Lot 70 of United States Survey Number 2969, Township 35 North, Range 5 East, in the City of Farmington, St. Francois, County, Missouri, more particularly described as follows:

From a stone marking the northwest corner of said Lot 70, also being the southwest corner of Crosswinds Plat 2 as per plat of record in Plat Book 15, page 163, St. Francois County Recorder's Office; thence S82°45'45"E, along the northerly line of said Lot 70, also being the southerly boundary of said Crosswinds Plat 2, 775.91 feet to the northwest corner of Habitat for Humanity Subdivision, as per plat of record in Plat Book 16, page 473, St. Francois County Recorder's Office; thence S07°05'05"W, along the westerly boundary of said Habitat for Humanity Subdivision, 150.00 feet to the southwesterly corner thereof; thence S31°44'48"W, 10.73 feet; thence westerly on a curve to the left having a radius of 250.00 feet, an arc length of 49.78 feet (the chord of said curve being N63°57'29"W, 49.70 feet); thence N69°39'46"W, 36.75 feet; thence westerly on a curve to the left having a radius of 400.00 feet, an arc length of 44.27 feet (the chord of said curve being N72°50'00"W, 44.25 feet) to the POINT OF BEGINNING for this description; thence S19°19'50"W, 213.97 feet; thence N82°45'45"W, 128.00 feet; thence N07°14'15"E, 212.00 feet; thence S82°45'45"E, 125.75 feet; thence easterly on a curve to the right having a radius of 400.00 feet, an arc length of 47.18 feet (the chord of said curve being S79°23'00"E, 47.15 feet) to the point of beginning. Containing 0.73 acres.

Subject to the southerly 15 feet of a 30 foot wide Ingress and Egress Easement.

**TRACT 6**

Part of Lot 70 of United States Survey Number 2969, Township 35 North, Range 5 East, in the City of Farmington, St. Francois, County, Missouri, more particularly described as follows:

From a stone marking the northwest corner of said Lot 70, also being the southwest corner of Crosswinds Plat 2 as per plat of record in Plat Book 15, page 163, St. Francois County Recorder's Office; thence S82°45'45"E, along the northerly line of said Lot 70, also being the southerly boundary of said Crosswinds Plat 2, 775.91 feet to the northwest corner of Habitat for Humanity Subdivision, as per plat of record in Plat Book 16, page 473, St. Francois County Recorder's Office; thence S07°05'05"W, along the westerly boundary of said Habitat for Humanity Subdivision, 150.00 feet to the southwesterly corner thereof; thence S31°44'48"W, 10.73 feet; thence westerly on a curve to the left having a radius of 250.00 feet, an arc length of 49.78 feet (the chord of said curve being N63°57'29"W, 49.70 feet); thence N69°39'46"W, 36.75 feet; thence westerly on a curve to the left having a radius of 400.00 feet, an arc length of 91.45 feet (the chord of said curve being N76°12'46"W, 91.25 feet); thence N82°45'45"W, 125.75 feet to the POINT OF BEGINNING for this description; thence S07°14'15"W, 212.00 feet; thence N82°45'45"W, 125.00 feet; thence N05°17'10"W, 214.89 feet; thence easterly, on a curve to the right having a radius of 350.00 feet, an arc length of 39.49 feet (the chord of said curve being S85°59'40"E, 39.47 feet); thence N82°45'45"W, 132.20 feet to the point of beginning. Containing 0.72 acres.

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Subject to the southerly 15 feet of a 30 foot wide Ingress and Egress Easement.

**TRACT 7**

Part of Lot 70 of United States Survey Number 2969, Township 35 North, Range 5 East, in the City of Farmington, St. Francois, County, Missouri, more particularly described as follows:

From a stone marking the northwest corner of said Lot 70, also being the southwest corner of Crosswinds Plat 2 as per plat of record in Plat Book 15, page 163, St. Francois County Recorder's Office; thence S82°45'45"E, along the northerly line of said Lot 70, also being the southerly boundary of said Crosswinds Plat 2, 775.91 feet to the northwest corner of Habitat for Humanity Subdivision, as per plat of record in Plat Book 16, page 473, St. Francois County Recorder's Office; thence S07°05'05"W, along the westerly boundary of said Habitat for Humanity Subdivision, 150.00 feet to the southwesterly corner thereof; thence S31°44'48"W, 10.73 feet; thence westerly on a curve to the left having a radius of 250.00 feet, an arc length of 49.78 feet, (the chord of said curve being N63°57'29"W, 49.70 feet); thence N69°39'46"W, 36.75 feet; thence westerly on a curve to the left having a radius of 400.00 feet, an arc length of 91.45 feet, (the chord of said curve being N76°12'46"W, 91.25 feet); thence N82°45'45"W, 257.95 feet; thence westerly, on a curve to the left having a radius of 350.00 feet, an arc length of 39.49 feet, (the chord of said curve being N85°59'40"W, 39.47 feet) to the POINT OF BEGINNING for this description; thence S05°17'10"E, 214.89 feet; thence N82°45'45"W, 84.46 feet; thence N57°50'37"W, 204.13 feet; thence northeasterly, on a curve to the right having a radius of 246.00 feet, an arc length of 187.61 feet, (the chord of said curve being N61°05'42"E, 183.10 feet); thence N82°56'37"E, 29.02 feet; thence easterly, on a curve to the right having a radius of 350.00 feet, an arc length of 47.83 feet, (the chord of said curve being N86°51'30"E, 47.79 feet) to the point of beginning. Containing 0.80 acres.

Subject to the southerly 15 feet of a 30 foot wide Ingress and Egress Easement.

The property hereby authorized to be conveyed by the governor shall be verified by a survey. Such survey shall be authorized by the division of facilities management, design and construction of the office of administration pursuant to this section.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 6. CONVEYANCE OF STATE PROPERTY LOCATED IN FARMINGTON. — 1.** The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property in Farmington, St. Francois County, Missouri, described as follows:

**TRACT A**

(Property north of cemetery and south of Doubet Road)

Part of Lots 85 and 94 of U.S. Survey 2969, Township 35 North, Range 5 East, St. Francois County, Missouri, more particularly described as follows:

From the southeast corner of said Lot 85; thence N82°17'32"W, along the southerly line of said Lot 85, 1134.20 feet; thence N8°01'10"E, 181.95 feet to the POINT OF BEGINNING for this description; thence N82°17'57"W, 537.96 feet to the easterly line of a 30 foot road; thence N7°08'47"E, 1166.91 feet; thence S81°30'19"E, 260.68 feet; thence N9°01'04"E, 206.03 feet to the northerly line of said Lot 94; thence S82°11'48"E, along the northerly line of said Lots 94 and 85, 291.47 feet; thence S8°01'10"W, 1368.72 feet to the point of beginning. Containing 16.00 acres.

EXCEPT all that part of right-of-way of DOUBET ROAD

**TRACT B**

Part of Lot 94 of U.S. Survey 2969, Township 35 North, Range 5 East, St. Francois County, Missouri, more particularly described as follows:

From the southeast corner of Lot 85 of said U.S. Survey 2969; thence N82°17'32"W, along the southerly line of said Lot 85, 1134.20 feet; thence N8°01'10"E, 181.95 feet; thence N82°17'57"W, 537.96 feet to the easterly line of a 30 foot road; thence N7°08'47"E, 320.10 feet to the POINT OF BEGINNING for this description; thence N81°42'19"W, 330.73 feet to the westerly line of a tract of land described by deed of record in Book 1164, page 627, St. Francois County Recorder's Office; thence N7°02'28"E, along the easterly line of said tract, 218.13 feet to the southwesterly corner of a tract of land described by deed of record in Book 834, page 413, St. Francois County Recorder's Office; thence S82°21'13"E, along the southerly line of said tract, described in Book 834, page 413, 331.08 feet to the southeasterly corner thereof also being the easterly line of a 30 foot wide roadway; thence S7°08'47"W, along the easterly line of said roadway, 221.87 feet to the point of beginning. Containing 1.67 acres.

EXCEPT a roadway 30 foot wide off the east side of the above described tract identified as Pullan Road in plats of record.

**TRACT C**

Part of Lot 94 of U.S. Survey 2969, Township 35 North, Range 5 East, St. Francois County, Missouri, more particularly described as follows:

From the southeast corner of Lot 85 of said U.S. Survey 2969; thence N82°17'32"W, along the southerly line of Lot 85 and the southerly line of Lot 94, 1669.38 feet to the POINT OF BEGINNING for this description; thence continuing N82°17'32"W, along the southerly line of said Lot 94, 329.75 feet to the southeasterly corner of a tract of land described by deed of record in Book 1164, page 627, St. Francois County Recorder's Office; thence N7°02'28"E, along the easterly line of said tract, 505.39 feet; thence S81°42'19"E, 330.73 feet to the easterly line of a 30 foot road; thence S7°08'47"W, along the easterly line of said road, 501.99 feet to the point of beginning. Containing 3.81 acres.

EXCEPT a roadway 30 foot wide off the east side of the above described tract identified as Pullan Road in plats of record.

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The property hereby authorized to be conveyed by the governor shall be verified by a survey. Such survey shall be authorized by the division of facilities management, design and construction of the office of administration pursuant to this section.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 7. CONVEYANCE OF FULTON RECEPTION AND DIAGNOSTIC CORRECTIONAL CENTER PROPERTY IN FULTON. — 1.** The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the Fulton Reception and Diagnostic Correctional Center in Fulton, Callaway County, Missouri, described as follows:

**TRACT A**

Part of the Southeast Quarter of Section 16, and part of the West Half of the Southwest Quarter of Section 15, Township 47 North, Range 9 West, Callaway County, Missouri, more particularly described as follows:

**BEGINNING** at the northwest corner of the Northwest Quarter of the Southwest Quarter of said Section 15; thence S89°41'24"E, along the northerly line of the Northwest Quarter of the Southwest Quarter of said Section 15, 275.73 feet; thence S43°20'20"W, 300.92 feet; thence S8°05'56"W, 304.60 feet; thence S17°41'13"W, 361.72 feet; thence S5°41'53"W, 119.01 feet; thence S19°13'46"E, 558.62 feet; thence N67°06'22"W, 312.53 feet; thence S70°06'18"W, 281.29 feet; thence S33°00'28"W, 139.44 feet to the northerly right-of-way line of Missouri State Route "O", as described in Book 154, page 119, Callaway County Recorder's Office; thence northwesterly along the northerly right-of-way line of Missouri State Route "O", as described in Book 154, page 119 on a curve to the left having a radius of 1462.79 feet, an arc distance of 30.60 feet (Ch=N57°45'00"W, 30.60 feet) to the southeasterly corner of the tract described in Book 315, page 600, Callaway County Recorder's Office; thence N1°36'43"E, along the easterly line of the tracts described in Book 315, page 600 and Book 352, page 299 and the northerly extension thereof, 1610.55 feet to the northerly line of the Northeast Quarter of the Southeast Quarter of said Section 16; thence S87°29'48"E, along the northerly line of the Northeast Quarter of the Southeast Quarter of said Section 16, 520.88 feet to the point of beginning. Containing 18.91 acres.

**TRACT B**

Part of the Northeast Quarter of the Southwest Quarter of Section 15, Township 47 North, Range 9 West, Callaway County, Missouri, more particularly described as follows:

From the center of said Section 15; thence S0°57'07"W, along the Quarter Section Line, 156.02 feet to the POINT OF BEGINNING for this description thence S0°57'07"W, continuing along the Quarter Section Line, 1169.11 feet to the southeast corner of the Northeast Quarter of the Southwest Quarter of said

Section 15; thence N89°33'02"W, along the Quarter Quarter Section Line, 699.01 feet; thence N37°22'48"E, 220.49 feet; thence N25°16'24"E, 146.24 feet; thence N14°35'08"E, 130.09 feet; thence N4°21'20"E, 212.38 feet; thence N16°35'17"E, 144.05 feet; thence N24°19'16"W, 124.59 feet; thence N61°06'31"E, 552.14 feet to the point of beginning. Containing 12.00 acres.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 8. CONVEYANCE OF MARYVILLE TREATMENT CENTER PROPERTY IN MARYVILLE. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the Maryville Treatment Center in Maryville, Nodaway County, Missouri, described as follows:

A Tract of land being part of the Southwest Quarter of Section 14, Township 64 North, Range 35 West, Nodaway County, Missouri, and being more particularly described as follows:

Commencing at the Southwest Corner of said Section 14; thence North 00°35'05" East along the West line of said Section 14 a distance of 963.40 feet to the Point of Beginning; thence continuing North 00°35'05" East along the West line of said Section 14 a distance of 364.65 feet to a point of intersection with the Westerly projection of the North line of a tract of land belonging to the State of Missouri; thence South 89°09'49" East along the North line of said tract of land belonging to the State of Missouri a distance of 800.28 feet; thence South 16° 24' 55" West departing the North line of said tract of land belonging to the State of Missouri a distance of 413.08 feet; thence North 75°25'01" West a distance of 74.74 feet; thence North 67°11'53" West a distance of 3.02 feet to a point of curvature; thence Northwesterly along a curve to the right, having a radius of 108.29 feet, a central angle of 40°49'11", and a distance of 77.15 feet to a point of tangency; thence North 26°22'41" West a distance of 51.08 feet to a point of curvature; thence Westerly along a curve to the left, having a radius of 91.52 feet, a central angle of 62°25'44", and a distance of 99.72 feet to a point of tangency; thence North 88°48'25" West a distance of 53.84 feet; thence South 88°43'03" West a distance of 48.53 feet to a point of curvature; thence Southwesterly along a curve to the left, having a radius of 103.12 feet, a central angle of 34°21'16", and a distance of 61.83 feet to a point of tangency; thence South 54°21'47" West a distance of 16.87 feet to a point of curvature; thence Westerly along a curve to the right, having a radius of 42.52 feet, a central angle of 48°35'05", and a distance of 36.06 feet to a point of tangency; thence North 77°03'09" West a distance of 26.26 feet to a point of curvature; thence Southerly along a curve to the left, having a radius of 60.88 feet, a central angle of 73°32'23", and a distance of 78.14 feet to a point of tangency; thence South 29°24'28" West a distance of 47.92 feet to a point of curvature; thence Westerly along a curve to the right, having a radius of 47.68 feet, a central angle of 60°56'08", and a distance of 47.68 feet to a point on a non-tangent line; thence North 89°39'50" West a distance of 88.48 feet to the Point of Beginning. Containing 228,660.55 square feet or 5.25 acres more or less except that part in Katydid Road right of way.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 9. CONVEYANCE OF EASTERN RECEPTION DIAGNOSTIC CORRECTION CENTER PROPERTY IN BONNE TERRE. —** 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the Eastern Reception Diagnostic Correctional Center in Bonne Terre, St. Francois County, Missouri, described as follows:

A Tract of land being part of U.S. Survey 71, Township 37 North, Range 5 East, St. Francois County, Missouri, and being more particularly described as follows:

Commencing at the common corner of U.S. Surveys 71 and 72 on the South line of U.S. Survey 2047; thence North  $82^{\circ}40'13''$  West along the Northern line of a tract of land described by Special Warranty Deed dated July 18, 2000 in Book 1425, Page 1004, St. Francois County, Missouri a distance of 436.79 feet; thence South  $44^{\circ}13'58''$  West along the Northwestern line of a tract of land described by aforementioned deed a distance of 1,989.23 feet; thence South  $07^{\circ}25'39''$  West along the Westerly line of a tract of land described by aforementioned deed a distance of 376.07 feet to the Point of Beginning; thence South  $82^{\circ}34'21''$  East a distance of 773.01 feet to a point 15 feet south and perpendicular from the southwest corner of existing fence for a sanitary sewer pump station; thence North  $88^{\circ}30'04''$  East along a line 15 foot parallel offset south with the south line of said existing fence for a sanitary sewer pump station a distance of 20.38 feet to a point not to encroach on a 400 foot parallel offset westerly from the westerly edge of an existing gravel perimeter drive hereinafter referred to as 400 foot buffer zone; thence South  $01^{\circ}56'19''$  East along said 400 foot buffer zone a distance of 255.11 feet; thence South  $00^{\circ}57'30''$  West along said 400 foot buffer zone, 215 feet westerly from the west corner of an existing parking lot a distance of 669.14 feet; thence North  $83^{\circ}26'49''$  West along a Southern course of a tract of land described by aforementioned deed a distance of 723.84 feet; thence North  $06^{\circ}31'26''$  East along a Western course of a tract of land described by aforementioned deed a distance of 447.39 feet; thence North  $84^{\circ}40'04''$  West along a Southern course of a tract of land described by aforementioned deed a distance of 179.37 feet; thence North  $07^{\circ}25'39''$  East along a Western course of a tract of land described by aforementioned deed a distance of 483.69 feet to the Point of Beginning. Containing 707,280.76 square feet or 16.24 acres more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 10. CONVEYANCE OF MISSOURI EASTERN CORRECTIONAL CENTER PROPERTY IN PACIFIC. —** 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of

Missouri in property located at the Missouri Eastern Correctional Center in Pacific, St. Louis County, Missouri, described as follows:

A Tract of land being part of Fraction Section 5, Township 43 North, Range 3 East, and United States Survey 148, St. Louis County, Missouri, and being more particularly described as follows:

Commencing at the Southerly most corner of the Eureka Fire Protection District Training Facility, a plat filed for record in Book 350, Page 811 on December 19, 2002 in St. Louis County, Missouri said point also being on the Westerly right of way of U.S. Highway 66 as shown on said Eureka Fire Protection District Training Facility plat; thence North 43°23'00" West along the Southwest line of said Eureka Fire Protection District Training Facility plat and it's Northwesterly projection thereof, said line also being the Northeast line of Allenton Acres, a plat filed for record in Book 47, Page 46 on April 14, 1950 in St. Louis County, Missouri a distance of 1,120.48 feet to the Point of Beginning, said point being at the angle point shown in the Northeast line of said Allenton Acres being marked by a Stone 30.11 feet South of the North corner of Tract No. 19 of said Allenton Acres; thence North 30°13'00" West along the Northeast line of said Allenton Acres a distance of 1,870.21 feet to the East corner of Tract No. 26 of said Allenton Acres; thence North 59°58'00" East along the Northeasterly projection of the Southeasterly line of said Tract No. 26 a distance of 245.64 feet to a point not to encroach on a 200 foot parallel offset Southwesterly from the top of the firing range berm extending Southeasterly to the intersection with the Southwesterly edge of a gravel drive which becomes asphalt, hereinafter referred to as 200 foot buffer zone; thence South 31°55'00" East along said 200 foot buffer zone a distance of 529.34 feet; thence South 26°22'23" East along said 200 foot buffer zone a distance of 826.89 feet; thence South 35°53'59" East along said 200 foot buffer zone a distance of 620.46 feet to a point on a 316.60 foot parallel offset Westerly from the Westerly line of said Eureka Fire Protection District Training Facility plat; thence South 38°15'40" West along said 316.60 foot parallel offset Westerly from the Westerly line of said Eureka Fire Protection District Training Facility plat a distance of 239.61 feet to a point on the Northeast line of said Allenton Acres; thence North 43°23'00" West along the Northeast line of said Allenton Acres a distance of 195.15 feet to the Point of Beginning. Containing 482,550.25 square feet or 11.08 acres more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 11. CONVEYANCE OF SOUTH CENTRAL CORRECTIONAL CENTER PROPERTY IN LICKING.** — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the South Central Correctional Center in Licking, Texas County, Missouri, described as follows:

A Tract of land being part of Lot 1, Northwest 1/4 Section 1, Township 32 North, Range 9 West, Texas County, Missouri, and being more particularly described as follows:

Commencing at the Southwest corner of said Lot 1, of the Northwest 1/4, Section 1, Township 32 North, Range 9 West, said point also being the West Quarter corner of said Section 1, Township 32 North, Range 9 West being marked by a Stone; thence North 00°06'15" West along the West line of said Lot 1, of the Northwest Quarter Section 1, as described by Warranty Deed dated April 6, 1998 in Book 580, Page 88, Texas County, Missouri a distance of 467.02 feet to the Northwest corner of a 5 acre tract of land shown as Tract 1 on a survey by Elgin Surveying and Engineering Inc. dated March 25, 1999 said point also being Point of Beginning; thence continuing North 00°06'15" West along the West line of said Lot 1, of the Northwest Quarter Section 1 as described by aforementioned deed a distance of 882.20 feet to the Northwest corner of said Lot 1, said Northwest corner also being the Northwest corner of the Northwest Quarter of said Section 1; thence South 86°41'01" East along the North line of said Lot 1 as described by aforementioned deed a distance of 1,339.33 feet to the intersection with the Northerly prolongation of the West line of the Northeast Quarter of the Southwest Quarter of said Section 1; thence South 00°21'20" West along the Northerly prolongation of the West line of the Northeast Quarter of the Southwest Quarter of said Section 1; a distance of 1,340.40 feet to the Northwest corner of the Northeast Quarter of the Southwest Quarter of said Section 1; thence North 87°02'15" West along the South line of said Lot 1 as described by aforementioned deed a distance of 861.09 feet to the Southeast corner of said Tract 1; thence North 00°06'15" West along the east line of said Tract 1 a distance of 467.02 feet to the Northeast corner of said Tract 1; thence North 87°02'15" West along the North line of said Tract 1 a distance of 467.02 feet to the Point of Beginning. Containing 1,573,308.10 square feet or 36.12 acres more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

#### SECTION 12. CONVEYANCE OF POTOSI CORRECTIONAL CENTER PROPERTY IN POTOSI.

— 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the Potosi Correctional Center in Potosi, Washington County, Missouri, described as follows:

A Tract of land being part of U.S. Survey 2134, and U.S. Survey 2115 Township 37 North, Range 3 East, Washington County, Missouri, and being more particularly described as follows:

Commencing at the Southwest corner of said U.S. Survey 2134; thence North 08°38'55" East along the West line of said U.S. Survey 2134 and the East line of said U.S. Survey 2115 a distance of 2,263.30 feet to the point of intersection with the North right of way of Missouri Route "O"; thence S 86°07'43" West along the North right of way of said Missouri Route "O" a distance of 552.50 feet to a point on the West line of a tract of land described by Missouri Special Warranty Deed dated August 29, 1996 also being the West line of a tract of land described by Deed of Trust and Security Agreement dated July 15 1992 recorded July 30 1992 in Deed of Trust Book 129 Page 668 in Washington County, Missouri; thence North 04°08'12" West along said West line a distance of 770.00 feet;

thence North 85°51'18" East departing said West line a distance of 237.06 feet; thence South 56°00'35" East a distance of 529.53 feet to a point on the West line of said U.S. Survey 2134 and the East line of said U.S. Survey 2115; thence South 04°08'12" East parallel with said West line of a tract of land described by Deed of Trust and Security Agreement dated July 15 1992 recorded July 30 1992 in Deed of Trust Book 129 Page 668 in Washington County, Missouri; a distance of 446.09 feet to the North right of way of said Missouri Route "O" ; thence South 86°07'43" West along the North right of way of said Missouri Route "O" a distance of 101.12 feet to the Point of Beginning. Containing 436,180.00 square feet or 10.01 acres more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 13. CONVEYANCE OF CHILLICOTHE CORRECTIONAL CENTER PROPERTY IN CHILLICOTHE.** — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the Chillicothe Correctional Center in Chillicothe, Livingston County, Missouri, described as follows:

**DEED DESCRIPTION PARENT TRACT:**

The North One Hundred Forty-five and One-half (145 1/2) acres of the Northwest Quarter of Section Nineteen (19), Township Fifty-eight (58), Range Twenty-three (23).

**SURVEY DESCRIPTION:**

A tract of land lying in the Northwest Quarter of Section 19, Township 58 North, Range 23 West, of the fifth principal meridian, being more particularly described as follows:

Commencing at an iron pin marking the Northwest corner of said Section 19; thence along the West line of said Section 19, South 00 degrees 00 minutes 18 seconds East, a distance of 1467.18 feet to the Point of Beginning, thence South 89 degrees 57 minutes 41 seconds East, a distance of 30.00 feet to an iron rod; thence South 89 degrees 57 minutes 41 seconds East, a distance of 732.03 feet to an iron rod; thence South 63 degrees 50 minutes 21 seconds East, a distance of 332.19 feet to an iron rod; thence South 89 degrees 57 minutes 41 seconds East, a distance of 1827.07 feet to an iron rod on the East line of said Northwest Quarter; thence along said East line, South 00 degrees 14 minutes 09 seconds West, a distance of 601.50 to an iron rod; thence North 89 degrees 57 minutes 41 seconds West, a distance of 2884.72 feet to an iron rod on the West line of said Section 19; thence North 00 degrees 00 minutes 18 seconds West, a distance of 747.76 feet to the POINT OF BEGINNING, containing 42.9 acres.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 14. CONVEYANCE OF TIPTON CORRECTIONAL CENTER PROPERTY IN TIPTON.** — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey,



remise, release and forever quitclaim all interest of the state of Missouri in property located at the Tipton Correctional Center in Tipton, Moniteau County, Missouri, described as follows:

**TRACT #1:**

A tract of land lying in the Northwest Quarter of Section 15, Township 45 North, Range 17 West of the fifth principal meridian, Moniteau County, Missouri, being more particularly described as follows:

Beginning at a stone marking the Northeast corner of the Northwest Quarter of said Section 15; thence South 01 degrees 55 minutes 18 seconds West, a distance of 1629.74 feet to an iron pipe; thence North 89 degrees 49 minutes 26 seconds West, a distance of 1195.00 feet to a point on the Easterly right-of-way of State Route B from which an iron pipe bears South 89 degrees 49 minutes 26 seconds East, a distance of 0.80 feet; thence North 01 degrees 59 minutes 40 seconds East, a distance of 356.24 feet to an iron rod; thence along the arc of a tangent curve to the left, having a radius of 603.81 feet for a length of 148.79 feet (chord=N05°03'54"W-148.42') to an iron rod; thence North 90 degrees 00 minutes 00 seconds East, a distance of 411.23 feet to an iron rod; thence North 00 degrees 00 minutes 00 seconds East, a distance of 1016.42 feet to an iron rod; thence North 90 degrees 00 minutes 00 seconds East, a distance of 232.48 feet to an iron rod; thence North 45 degrees 00 minutes 00 seconds East, a distance of 158.22 feet to the North line of said Section 15; thence South 89 degrees 11 minutes 16 seconds East, a distance of 494.81 feet to the POINT OF BEGINNING, containing 34.4 acres.

**TRACT #2:**

A tract of land lying in the Southwest Quarter of the Southwest Quarter of Section 10 and the Northwest Quarter of Section 15, Township 45 North, Range 17 West of the fifth principal meridian, Moniteau County, Missouri, being more particularly described as follows:

Beginning at an iron pipe marking the Northwest corner of said Section 15; thence North 35 degrees 34 minutes 25 seconds East, a distance of 586.57 feet to an iron rod; thence South 02 degrees 01 minutes 15 seconds West, a distance of 2097.22 feet to an iron rod; thence North 89 degrees 45 minutes 08 seconds West, a distance of 317.27 feet to a point on the West line of said Section 15 from which an iron pipe bears South 89 degrees 45 minutes 08 seconds East, a distance of 32.46 feet; thence along said West line, North 01 degrees 46 minutes 13 seconds East, a distance of 195.48 feet (195.54' record) to a point from which an iron rod bears South 89 degrees 40 minutes 35 seconds East, a distance of 30.00 feet; thence South 89 degrees 40 minutes 35 seconds East, a distance of 240.65 feet (240.43' record) to an iron pipe; thence North 01 degrees 30 minutes 39 seconds East, a distance of 364.18 feet to an iron rod; thence North 88 degrees 21 minutes 01 seconds West, a distance of 238.93 feet to an iron pipe on the West line of said Section 15; thence North 01 degrees 46 minutes 13 seconds East, a distance of 1053.00 feet (1052.89' record) to the POINT OF BEGINNING, containing 11.7 acres.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 15. CONVEYANCE OF WOMEN'S EASTERN RECEPTION AND DIAGNOSTIC CENTER PROPERTY IN VANDALIA. — 1.** The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the Women's Eastern Reception and Diagnostic Correctional Center in Vandalia, Audrain County, Missouri, described as follows:

**TRACT #1**

A tract of land lying in the Northeast Quarter of Section 5, Township 52 North, Range 5 West of the fifth principal meridian, Audrain County, Missouri being more particularly described as follows:

Beginning at an iron rod marking the Northwest corner of Section 4, Township 52 North, Range 5 West; thence along the East line of said Section 5, South 00 degrees 06 minutes 12 seconds West, a distance of 421.74 feet to an iron rod; thence South 45 degrees 06 minutes 12 seconds West, a distance of 203.01 feet to an iron rod; thence South 02 degrees 32 minutes 35 seconds West, a distance of 844.29 feet to an iron rod; thence South 59 degrees 14 minutes 50 seconds East, a distance of 208.64 feet to an iron rod on the North line of McPike Street; thence along the Northern line of McPike Street, South 59 degrees 58 minutes 55 seconds West, a distance of 683.55 feet to an iron rod; thence along the West line of the East 23 acres (lying North of McPike Street) of the Northeast Quarter of said Section 5, North 00 degrees 06 minutes 12 seconds East, a distance of 1873.87 feet to an iron rod on the North line of said Section 5; thence South 88 degrees 22 minutes 45 seconds East, a distance of 591.45 feet to the POINT OF BEGINNING, containing 19.4 acres.

**TRACT #2**

A tract of land lying in the Northwest Quarter of Section 4, Township 52 North, Range 5 West of the fifth principal meridian, Audrain County, Missouri being more particularly described as follows:

Commencing at an iron rod marking the Northwest corner of said Section 4; thence along the West line of said Section 4, South 00 degrees 06 minutes 12 seconds West, a distance of 1515.19 feet to an iron rod and the POINT OF BEGINNING; thence South 58 degrees 58 minutes 06 seconds East, a distance of 615.40 feet to an iron rod; thence South 71 degrees 06 minutes 15 seconds East, a distance of 439.54 feet to an iron rod; thence South 00 degrees 06 minutes 52 seconds West, a distance of 173.66 feet to an iron rod on the Northerly right-of-way of U.S. Highway 54; thence along said right-of-way, Southwesterly along the arc of a curve the right, having a radius of 1392.39 feet for a length of 331.89 feet (chord = S75°12'14"W -331.10') to an iron rod at the Southeast corner of a tract conveyed to Giltner in Book 277 at Page 893; thence North 00 degrees 06 minutes 12 seconds East, a distance of 201.55 feet to an iron rod at the Northeast corner of said Giltner tract; thence along the North line of said Giltner tract and it's Westerly extension, North 89 degrees 53 minutes 48 seconds West, a distance of 624.00 feet to a point on the West line of said Section 4 at the Northwest corner of a tract conveyed to Casey's Marketing Company in Book 290 at Page 65; thence along the West line of said Section 4, North 00 degrees 06 minutes 12

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seconds East, a distance of 515.13 feet to the POINT OF BEGINNING, containing 6.8 acres.

**TRACT #3**

A tract of land lying in the Northwest Quarter of Section 4, Township 52 North Range 5 West of the fifth principal meridian, Audrain County, Missouri being more particularly described as follows:

Commencing at the Northeast corner of the Northwest Quarter of said Section 4; thence North 88 degrees 12 minutes 50 seconds West, a distance of 420.39 feet to an iron rod and the POINT OF BEGINNING; thence South 00 degrees 20 minutes 10 seconds East, a distance of 660.82 feet to an iron rod at the Northwest corner of a tract conveyed to Davis in Book 212 at Page 104; thence along the West line of said Davis tract extended, South 00 degrees 20 minutes 10 seconds East, a distance of 658.74 feet to an iron rod at Southwest corner of a tract conveyed to Heaston in Book 277 at Page 173 said point also being the Northerly right-of-way of U.S. Highway 54; thence along said right-of-way, South 59 degrees 58 minutes 21 seconds West, a distance of 23.02 feet to an iron rod at the Southeast corner of a tract conveyed to Warren County Concrete LLC in Book 296 at page 909; thence North 00 degrees 20 minutes 10 seconds West, a distance of 237.04 feet to an iron rod at the Northeast corner of said tract; thence along the North line of said tract, South 89 degrees 08 minutes 08 seconds West, a distance of 177.91 feet to an iron rod; thence North 00 degrees 20 minutes 10 seconds West, a distance of 1102.95 feet to an iron rod on the North line of said Section 4; thence South 88 degrees 12 minutes 50 seconds East, a distance of 198.04 feet to the POINT OF BEGINNING, containing 5.1 acres.

**TRACT #4**

A tract of land lying in the Northwest Quarter of Section 4, Township 52 North Range 5 West of the fifth principal meridian, Audrain County, Missouri being more particularly described as follows:

Commencing at the Northeast corner of the Northwest Quarter of said Section 4; thence North 88 degrees 12 minutes 50 seconds West, a distance of 213.15 feet to an iron rod and the POINT OF BEGINNING; thence South 00 degrees 20 minutes 10 seconds East, a distance of 660.84 feet to an iron rod at the Northeast corner of a tract conveyed to Davis in Book 212 at Page 104; thence North 88 degrees 12 minutes 43 seconds West, a distance of 207.25 feet to an iron rod at the Northwest corner of said Davis tract; thence North 00 degrees 20 minutes 10 seconds West, a distance of 660.82 feet to an iron rod on the North line of said Section 4; thence South 88 degrees 12 minutes 50 seconds East, a distance of 207.24 feet to the POINT OF BEGINNING, containing 3.1 acres.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.
3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 16. CONVEYANCE OF MOBERLY CORRECTIONAL CENTER PROPERTY IN MOBERLY.** — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in

property located at the Moberly Correctional Center in Moberly, Randolph County, Missouri, described as follows:

**TRACT #1**

A tract of land lying in the South half of the Southwest Quarter of Section 24 of the fifth principal meridian, Randolph County, Missouri being more particularly described as follows:

Commencing at an iron rod marking the Southwest corner of said Section 24; thence South 88 degrees 25 minutes 02 seconds East, a distance of 37.74 feet to an iron rod on the Easterly right-of-way line of Route AA and the POINT OF BEGINNING; thence along said right-of-way the following courses and distances, North 01 degrees 01 minutes 31 Seconds East, a distance of 1255.56 feet to an iron rod; thence North 31 degrees 42 minutes 09 seconds East, a distance of 68.60 feet to an iron rod; thence North 01 degrees 01 minutes 31 seconds East, a distance of 23.23 feet to the North line of the South Half of the Southwest Quarter of said Section 24; thence along said North line, South 88 degrees 20 minutes 53 seconds East, a distance of 1484.22 feet to a cotton gin spike; thence South 06 degrees 00 minutes 00 seconds East, a distance of 961.29 feet to an iron rod; thence South 68 degrees 34 minutes 57 seconds West, a distance of 981.65 feet to an iron rod; thence North 88 degrees 25 minutes 02 seconds West, a distance of 729.33 feet to an iron rod on the Easterly right-of-way line of Route AA and the POINT OF BEGINNING, containing 44.9 acres.

**TRACT #2**

A tract of land lying in the Southeast Quarter of the Northeast Quarter of Section 26, Township 53 North, Range 14 West of the fifth principal meridian, Randolph County, Missouri being more particularly described as follows:

Commencing at an iron rod marking the Southeast corner of said Northeast Quarter of said Section 26; thence along the South line of said Northeast Quarter, North 89 degrees 16 minutes 06 seconds West, a distance of 40.20 feet to an iron rod on the Westerly right-of-way of Route AA and the POINT OF BEGINNING; thence continuing North 89 degrees 16 minutes 06 seconds West, a distance of 895.00 feet to an iron rod; thence North 01 degrees 27 minutes 48 seconds East, a distance of 1170.00 feet to an iron rod; thence South 89 degrees 11 minutes 58 seconds East, a distance of 895.00 feet to an iron rod on the Westerly right-of-way of said Route AA; thence along said right-of-way, South 01 degrees 27 minutes 31 seconds West, a distance of 1135.35 feet to a right-of-way marker; thence South 01 degrees 37 minutes 31 seconds West, a distance of 33.57 feet to the POINT OF BEGINNING, containing 24.0 acres.

**TRACT #3**

A tract of land lying in the Southwest Quarter of the Northeast Quarter of Section 26, Township 53 North, Range 14 West of the fifth principal meridian, Randolph County, Missouri being more particularly described as follows:

Commencing at an iron rod marking the Southwest corner of the Northeast Quarter; thence along the West line of said Northeast Quarter, North 00 degrees 53 minutes 48 seconds East, a distance of 50.00 feet to an iron rod and the POINT OF BEGINNING; thence continuing North 00 degrees 53 minutes 48 seconds

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East, a distance of 630.43 feet to an iron rod at the centerline of an old railroad bed; thence along said centerline, North 60 degrees 58 minutes 53 seconds East, a distance of 1068.18 feet to an iron rod; thence South 01 degrees 27 minutes 48 seconds West, a distance of 1210.58 feet to an iron rod on the South line of said Northeast Quarter; thence North 89 degrees 16 minutes 06 seconds West, a distance of 250.85 feet to an iron rod; thence North 89 degrees 16 minutes 06 seconds West, a distance of 613.10 feet to an iron rod; thence North 00 degrees 53 minutes 48 seconds East, a distance of 50.00 feet to an iron rod; thence North 89 degrees 16 minutes 06 seconds West, a distance of 50.00 feet to the POINT OF BEGINNING, containing 19.9 acres.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 17. CONVEYANCE OF ST. FRANCOIS COUNTY CORRECTIONAL FACILITY PROPERTY IN FARMINGTON TO ST. FRANCOIS COUNTY.** — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the St. Francois County Correctional Facility in Farmington, St. Francois County, Missouri, to St. Francois County described as follows:

Part of Lot 85 of U.S. Survey 2969, Township 35 North, Range 5 East, St. Francois County, Missouri, more particularly described as follows:

From the southeast corner of said Lot 85; thence N82°17'32"W, along the southerly line of said Lot 85, 681.19 feet; thence N8°01'10"E, 1086.14 feet to an iron rod and the POINT OF BEGINNING for this description; thence N81°58'50"W, 453.00 feet to an iron rod; thence N8°01'10"E, 462.07 feet to the northerly line of said Lot 85; thence S81°11'48"E, along the northerly line of said Lot 85, 453.00 feet; thence S8°01'10"W, 463.78 feet to the point of beginning. Containing 4.81 acres.

**EXCEPT all that part of right-of-way of DOUBET ROAD**

**Ingress & Egress Easement Description for above described property at Northwest Driveway**

Part of Lot 85 and Lot 94 of U.S. Survey 2969, Township 35 North, Range 5 East, St. Francois County, Missouri, more particularly described as follows:

From the southeast corner of said Lot 85; thence N82°17'32"W, along the southerly line of said Lot 85, 681.19 feet; thence N8°01'10"E, 1086.14 feet to an iron rod; thence N81°58'50"W, 453.00 feet to an iron rod; thence N8°01'10"E, 382.07 feet to the POINT OF BEGINNING for this description; thence N4°24'17"W, 58.00 feet; thence N41°50'28"E, 36.00 feet to the northerly line of said Lot 94; thence S81°11'48"E, along the northerly line of said Lot 94 and said Lot 85, 40.00 feet; thence S8°01'10"W, 80.00 feet to the point of beginning.

**EXCEPT all that part of right-of-way of DOUBET ROAD**

The property hereby authorized to be conveyed by the governor shall be verified by a survey. Such survey shall be authorized by the division of facilities, management, design and construction of the office of administration pursuant to this section.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 18. CONVEYANCE OF ADRIANS ISLAND PROPERTY IN COLE COUNTY TO JEFFERSON CITY.** — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey, a permanent sidewalk easement over, on and under property owned by the state of Missouri located at the Adrians Island in Cole County, Missouri to the City of Jefferson. The easement to be conveyed is more particularly described as follows:

From the southeasterly corner of Inlot 69 of said City of Jefferson, Missouri, being a point on the northerly line of West Main Street; thence N47°34'39"W, along the southerly line of said Inlot 69 and the northerly line of West Main Street, 81.24 feet to the most westerly corner of the aforesaid tract of land described in Book 222, page 635, Cole County Recorder's Office; thence N54°20'21"E, along the northwesterly boundary of said tract described in Book 222, page 635, 215.95 feet to the POINT OF BEGINNING for this description; thence continuing N54°20'21"E, along the northwesterly boundary of said tract described in Book 222, page 635, 57.98 feet; thence N74°18'22"E, 21.47 feet; thence Northeasterly, on a curve to the left, having a radius of 53.50 feet, an arc distance of 28.29 feet (the chord of said curve being N59°09'19"E, 27.97 feet); thence N44°00'17"E, 36.99 feet; thence N45°59'43"W, 3.09 feet to a point on the aforesaid northwesterly boundary of the property described in Book 222, page 635; thence N54°20'21"E, along the northwesterly boundary of said property described in Book 222, page 635, 6.68 feet to the most northerly corner thereof; thence S47°41'54"E, along the northeasterly boundary of said property described in Book 222, page 635, 28.93 feet; thence S68°15'20"W, 18.39 feet; thence S44°00'17"W, 41.47 feet; thence S74°18'22"W, 85.87 feet; thence S61°46'15"W, 15.35 feet to the POINT OF BEGINNING

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 19. PERMANENT LEVEE EASEMENT ON CHURCH FARM PROPERTY IN COLE COUNTY TO BE CONVEYED TO THE COLE JUNCTION LEVEE DISTRICT.** — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey, a permanent levee easement over, on and under property owned by the state of Missouri located at the Church Farm in Cole County, Missouri to the Cole Junction Levee District. The easement to be conveyed is more particularly described as follows:

All that part of Grantors property that lies within a 200 foot wide strip of land as it crosses part of the Southeast Quarter of Section 18 in Township 45 North, Range 12 West, all in Cole County, Missouri, and said strip of land lies 100 feet each side of and adjacent to the following described centerline:

From the southeast corner of said Section 18, Township 45 North, Range 12 West; thence N2°45'29"E, along the Section Line, 716.03 feet to the centerline of an unrecorded 200 foot wide easement to The Cole Junction Levee District, dated May 3, 1995 and the POINT OF BEGINNING for this centerline description; thence N50°30'04"W, along the centerline of said unrecorded easement and along the center of the existing levee, 1043.02 feet; thence S68°35'49"W, 1091.24 feet; thence S74°30'43"W, 461.55 feet; thence S12°20'42"W, 480.39 feet to the centerline of the 100 foot wide Missouri Pacific Railroad right-of-way and the Point of Termination.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 20. PERMANENT PIPELINE EASEMENT ON MOBERLY CORRECTIONAL CENTER PROPERTY IN RANDOLPH COUNTY TO BE CONVEYED TO THE PANHANDLE EASTERN PIPELINE COMPANY. — 1.** The governor is hereby authorized and empowered to sell, transfer, grant, and convey, a permanent pipeline easement over, on and under property owned by the state of Missouri located at the Moberly Correctional Center in Randolph County, Missouri to the Panhandle Eastern Pipeline Company, LP a Delaware Limited Partnership. The easement to be conveyed is more particularly described as follows:

**DESCRIPTION OF 8" MOBERLY PIPELINE — SECTION 25**

A tract of land fifty (50) feet in width, being twenty five (25) feet Northerly and twenty five (25) feet Southerly of the following described line of survey. All located in the Northwest Quarter (NW 1/4) of Section 25, Township 53 North, Range 14 West, Randolph County, Missouri. Commencing at the Northwest corner of said Section 25, a aluminum cap LS1803, thence South 09 degrees, 08 minutes, 08 seconds East, a distance of 363.27 feet to the Point of Beginning. Thence North 88 degrees 05 minutes 07 seconds West, a distance of 67.24 feet to the West line of said Section 25 and the Point of Terminus, from which the said Northwest corner of said Section 25, bears North 01 degrees 31 minutes, 52 seconds East, a distance of 356.54 feet. Said tract of land contains 4.08 linear rods, more or less.

**DESCRIPTION OF 4" CONNECTION — SECTION 25 & 26**

A tract of land fifty (50) feet in width, being twenty five (25) feet Northerly and twenty five (25) feet Southerly of the following described line of survey. All located in the Northeast Quarter (NE 1/4) of Section 26 and the Northwest Quarter (NW 1/4) of Section 25, Township 53 North, Range 14 West, Randolph County, Missouri.

Commencing at the Northeast corner of said Section 26, a aluminum cap LS1803, thence South 06 degrees 33 minutes 48 seconds West , a distance of 1710.22 feet to the Point of Beginning. Thence North 89 degrees 04 minutes 19 seconds East, a distance of 150.16 feet to a point on the East line of said Section 26, the West line of Section 25 and the center of 6 Mile Lane. Thence North 89 degrees 04 minutes 19 seconds East, a distance of 73.98 feet to the Point of Terminus from which the Northwest corner of said Section 25, bears North 00 degrees, 58 minutes 02 seconds West, a distance of 1695.62 feet. Said tract of land

contains 9.10 linear rods in Section 26 and 4.48 linear rods in Section 25, more or less.

**DESCRIPTION OF 8" MOBERLY PIPELINE — SECTION 26**

A tract of land fifty (50) feet in width, being twenty five (25) feet Easterly and twenty five (25) feet Westerly of the following described line of survey. All located in the Northeast Quarter (NE 1/4) of Section 26, Township 53 North, Range 14 West, Randolph County, Missouri.

Commencing at the Northeast corner of said Section 26, a aluminum cap LS 1803, thence South 07 degrees 50 minutes 50 seconds West, a distance of 1363.00 feet to the Point of Beginning. Thence South 01 degrees 31 minutes 56 seconds West, a distance of 1323.75 feet to the Point of Terminus from which the said Northeast corner of said Section 26, bears North 04 degrees 44 minutes 13 seconds East, a distance of 2682.67 feet. Said tract of land contains 80.23 linear rods, more or less.

Additional temporary workspace shall be fifty (50) feet in width with additional fifty (50) feet at road crossings for construction, replacement and removal purposes.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 21. CONVEYANCE OF SOUTH EAST MISSOURI MENTAL HEALTH CENTER PROPERTY IN FARMINGTON TO THE MISSOURI HIGHWAY AND TRANSPORTATION COMMISSION. — 1.** The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the South East Missouri Mental Health Center located in Farmington, St. Francois County to the Missouri Highways and Transportation Commission, described as follows:

A tract of land lying and being situated in part of Lots 76, 77, and 80 of F.W. Rohland Subdivision of United States Survey 2969, a Subdivision filed for record in Deed Book F at Page 441, Township 35 North, Range 5 East of the Fifth Principal Meridian, City of Farmington, County of St. Francois, State of Missouri being more particularly described as follows:

Commence at a found No. 5 rebar marking the Northwest corner of Lot 62 of said F.W. Rohland Subdivision; thence S36 deg. 46 min. 52 sec. W a distance of 1905.27 feet to a Point, 55.00 feet right of Route 221 centerline station 796+00.00, said point being located on the existing Southerly MHTC (Missouri Highways and Transportation Commission) Boundary line of Route 221 and being the Point of Beginning; thence departing from said MHTC Boundary line; thence S 40 deg. 14 min. 38 sec. W a distance of 304.18 feet to a set Point, 185.00 feet right of Route 221 centerline station 793+25.00; thence S 33 deg. 16 min. 10 sec. W a distance of 224.72 feet to a set Point, 305.00 feet right of Route 221 centerline station 791+35.00; thence S 56 deg. 11 min. 56 sec. W a distance of 86.14 feet to a set Point, 318.99 feet right of Route 221 centerline station 790+50.00; thence N 12 deg. 19 min. 44 sec. E a distance of 225.83 feet to a found Steel MHTC Boundary Marker, 138.13 feet right of Route 221 centerline station 791+85.22; thence N 40 deg. 49 min. 53 sec. E a distance of 127.55 feet to a found Steel MHTC Boundary Marker, 84.80 feet right of Route 221 centerline station 793+01.09; thence N 59

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deg. 51 min. 09 sec. E a distance of 300.39 feet to the Point of Beginning, containing 0.95 acres, more or less.

Also, all abutters' rights of direct access between the highway now known as State Rte. 67 and grantor's abutting land in part of Lots 76, 77, and 80 of F.W. Rohland Subdivision of United States Survey 2969, a Subdivision filed for record in Deed Book F at Page 441, Township 35 North, Range 5 East of the Fifth Principal Meridian, City of Farmington, County of St. Francois, State of Missouri.

Also, all abutters' rights of direct access between the exit ramp now known as Ramp 3 and grantor's abutting land in part of Lots 76, 77, and 80 of F.W. Rohland Subdivision of United States Survey 2969, a Subdivision filed for record in Deed Book F at Page 441, Township 35 North, Range 5 East of the Fifth Principal Meridian, City of Farmington, County of St. Francois, State of Missouri. Said Ramp 3 being an exit ramp connecting the northbound lane of the highway now known as State Rte 67 to the highway now designated State Rte. 221, formerly known as State Rte. W.

Also, all abutters' rights of direct access between the highway now designated State Rte. 221, formerly known as State Rte. W and grantor's abutting land in part of Lots 76, 77, and 80 of F.W. Rohland Subdivision of United States Survey 2969, a Subdivision filed for record in Deed Book F at Page 441, Township 35 North, Range 5 East of the Fifth Principal Meridian, City of Farmington, County of St. Francois, State of Missouri.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 22. CORRECTED CONVEYANCE LANGUAGE FOR A 2009 CONVEYANCE AUTHORIZATION FOR SOUTH EAST MISSOURI MENTAL HEALTH CENTER PROPERTY IN FARMINGTON. — 1.** The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the South East Missouri Mental Health Center located in Farmington, St. Francois County, which was previously authorized by the 95th General Assembly, Second Regular Session in House Bill 2285 in 2010 but contained an error in the legal description and is now corrected and described as follows:

A tract of land situated in the city of Farmington, County of St. Francois and the State of Missouri, lying in part of Lots 76, 77 and 80 of F.W. Rohland Subdivision of United States Survey 2969, a Subdivision filed for record in Deed Book F at Page 441 of the Land records of St. Francois County, Missouri, described as follows:

Commencing at a found No. 5 rebar marking the Northwest corner of Lot 62 of said F.W. Rohland Subdivision, thence South  $36^{\circ}46'10''$  West 1905.10' to a found right-of-way marker on the South right-of-way of Columbia Street (Missouri Highway 221) and the Northwest corner of the United States Army Reserve Center, the POINT OF BEGINNING of the tract herein described: thence along the West line of said Army Reserve Center South  $24^{\circ}38'52''$  East 498.03' to a found No. 5 rebar marking the Southwest corner of said Army Reserve Center;

thence South 16°01'44" West 238.03' to a point; thence South 25°42'29" West 2024.68' to a point; thence North 81°56'11" West 30.03' to a point on the East right-of-way of U.S. Highway 67; thence along said East right-of-way of said Highway 67 North 03°47'30" East 36.31' to a point; thence continuing along said East right-of-way North 14°42'22" East 131.51' to a point; thence continuing along said East right-of-way North 03°26'38" West 201.66' to a found right-of-way marker; then continuing along said East right-of-way North 03°45'45" East 952.18' to a point; thence continuing along said East right-of-way North 12°19'49" East 961.53' to a found right-of-way marker on the East right-of-way of U.S. Highway 67 and the South right-of-way of Columbia Street (Missouri Highway 221); thence along said South right-of-way North 40°51'00" East 127.36' to a found right-of-way marker; thence continuing along said South right-of-way North 59°52'29" East 300.57' to the point of beginning. Containing 23.96 acres, more or less. Being part of Deed Book 343 at Page 441 and excluding the following 0.95 acres more or less to be conveyed to the Missouri Highways and Transportation Commission and described as follows:

A tract of land lying and being situated in part of Lots 76, 77, and 80 of F.W. Rohland Subdivision of United States Survey 2969, a Subdivision filed for record in Deed Book F at Page 441, Township 35 North, Range 5 East of the Fifth Principal Meridian, City of Farmington, County of St. Francois, State of Missouri being more particularly described as follows:

Commence at a found No. 5 rebar marking the Northwest corner of Lot 62 of said F.W. Rohland Subdivision; thence S36 deg. 46 min. 52 sec. W a distance of 1905.27 feet to a Point, 55.00 feet right of Route 221 centerline station 796+00.00, said point being located on the existing Southerly MHTC (Missouri Highways and Transportation Commission) Boundary line of Route 221 and being the Point of Beginning; thence departing from said MHTC Boundary line; thence S 40 deg. 14 min. 38 sec. W a distance of 304.18 feet to a set Point, 185.00 feet right of Route 221 centerline station 793+25.00; thence S 33 deg. 16 min. 10 sec. W a distance of 224.72 feet to a set Point, 305.00 feet right of Route 221 centerline station 791+35.00; thence S 56 deg. 11 min. 56 sec. W a distance of 86.14 feet to a set Point, 318.99 feet right of Route 221 centerline station 790+50.00; thence N 12 deg. 19 min. 44 sec. E a distance of 225.83 feet to a found Steel MHTC Boundary Marker, 138.13 feet right of Route 221 centerline station 791+85.22; thence N 40 deg. 49 min. 53 sec. E a distance of 127.55 feet to a found Steel MHTC Boundary Marker, 84.80 feet right of Route 221 centerline station 793+01.09; thence N 59 deg. 51 min. 09 sec. E a distance of 300.39 feet to the Point of Beginning, containing 0.95 acres, more or less.

Also, all abutters' rights of direct access between the highway now known as State Rte. 67 and grantor's abutting land in part of Lots 76, 77, and 80 of F.W. Rohland Subdivision of United States Survey 2969, a Subdivision filed for record in Deed Book F at Page 441, Township 35 North, Range 5 East of the Fifth Principal Meridian, City of Farmington, County of St. Francois, State of Missouri.

Also, all abutters' rights of direct access between the exit ramp now known as Ramp 3 and grantor's abutting land in part of Lots 76, 77, and 80 of F.W. Rohland Subdivision of United States Survey 2969, a Subdivision filed for record in Deed Book F at Page 441, Township 35 North, Range 5 East of the Fifth Principal Meridian, City of Farmington, County of St. Francois, State of

Missouri. Said Ramp 3 being an exit ramp connecting the northbound lane of the highway now known as State Rte 67 to the highway now designated State Rte. 221, formerly known as State Rte. W.

Also, all abutters' rights of direct access between the highway now designated State Rte. 221, formerly known as State Rte. W and grantor's abutting land in part of Lots 76, 77, and 80 of F.W. Rohland Subdivision of United States Survey 2969, a Subdivision filed for record in Deed Book F at Page 441, Township 35 North, Range 5 East of the Fifth Principal Meridian, City of Farmington, County of St. Francois, State of Missouri.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 23. CONVEYANCE OF NATIONAL GUARD PROPERTY IN CENTERTOWN. — 1.** The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the National Guard site located in Centertown, Cole County, Missouri, described as follows:

Lots Nos. 2, 3 and 4, in Block No. 1, in Flessa's Addition to the town of Centertown, Missouri;

ALSO: Lots Nos. 1, 2, 3 and 4, in Block No. 4, in Flessa's Addition to the town of Centertown, Missouri;

ALSO: The northwest corner of the Northeast quarter of the Southwest quarter of Section 25, Township 45, Range 14, more particularly described as follows: Beginning at the northwest corner of the aforesaid forty; thence south 225 feet, to the south line of Locust Street in the town of Centertown, Missouri; thence east 310 feet; thence north 225 feet, to the north line of the aforesaid forty; thence west 310 feet, to the point of beginning.

ALSO: The southwest corner of the Southeast quarter of the Northwest quarter of Section 25, Township 45, Range 14, more particularly described as follows: Beginning at the southwest corner of the aforesaid forty; thence east 310 feet; thence north 339 feet; thence west 310 feet, to the west line of the aforesaid forty; thence south 339 feet, to the point of beginning.

All in Cole County, Missouri.

Subject to easements and restrictions of record, if any.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 24. PERMANENT DRAINAGE EASEMENT ON CERTAIN STATE PROPERTY IN JOPLIN. — 1.** The governor is hereby authorized and empowered to sell, transfer, grant, convey a permanent drainage easement over, on and under property owned by the state of Missouri located at the Department of Mental Health Regional Office and the

Department of Elementary and Secondary Education State School for the Severely Disabled located in Joplin, Jasper County Missouri, described as follows, to-wit:

A tract of land in the S.E. Quarter Of Section 31 Township 28 Range 32 West in the City of Joplin, Jasper County, Missouri, and being a part of the lands of the State of Missouri described in Book 1185 Page 2082 of the Jasper County Land Records;

Commencing at a 1/2" rebar survey monument with Anderson Engineering's survey cap found thereon; Said monument being on the Southern boundary line of College Skyline Addition, a Subdivision in the City of Joplin; Said monument also being 800.00' E. of the N.W. corner of the S.W. Quarter of the S.E. Quarter of said Section; Said monument also being the N.E. corner of the aforesaid lands of the State of Missouri described in Book 1185 Page 2082 of the Jasper County Land Records;

THENCE: Bearing N.89°07'45"W. 326.74' along the Southern boundary line of College Skyline Addition to a point;

Said point being the POINT OF BEGINNING;

COURSE 1: Thence departing said Southern boundary line along a curve to the left as follows: arc length 76.25', arc radius 80.00', chord bearing S.24°56'55"E., chord distance 73.39' to a point;

COURSE 2: Thence Bearing S.52°15'09"E. 347.20' to a point;

COURSE 3: Thence along a curve to the right as follows: arc length 17.24', arc radius 120.00', chord bearing S.48°08'16"E., chord distance 17.22' to a point on the Western boundary line of the lands of Missouri Southern State University;

COURSE 4: Thence continuing along said Western boundary line of the lands of said University, bearing S.01°40'52"W. 93.52' to a point;

COURSE 5: Thence departing said Western boundary line, bearing N.37°37'59"W. 59.00' to a point;

COURSE 6: Thence along a curve to the left as follows: arc length 15.31', arc radius 60.00', chord bearing N.44°56'34"W., chord distance 15.27' to a point;

COURSE 7: Thence bearing N.52°15'09"W. 347.20' to a point;

COURSE 8: Thence along a curve to the right as follows: arc length 131.88', arc radius 140.00', chord bearing N.25°16'00"W., chord distance 127.06' to a point on the Southern boundary line of College Skyline Addition;

COURSE 9: Thence bearing S.89°07'45"E. 60.01' along said Southern boundary line to a point; Said point being the POINT OF BEGINNING; Containing 0.4727 acres, more-or-less, or 20,593 square feet.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION B. EMERGENCY CLAUSE.** — Because immediate action is necessary to generate revenue from the sale of state property, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to

be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved July 14, 2011

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HB 142 [CCS SCS HB 142]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Changes the laws regarding political subdivisions**

AN ACT to repeal sections 55.030, 67.1521, 90.101, 475.115, and 479.011, RSMo, and to enact in lieu thereof seven new sections relating to political subdivisions.

**SECTION**

- A. Enacting clause.
- 55.030. To prescribe accounting system — other duties (certain first class counties).
- 67.319. Water service lines, repair programs, municipalities and certain districts — fee imposed — ballot language — administration — fee added to general tax levy bill, when.
- 67.451. Ordinance enforcement, special tax bills for recovery of costs.
- 67.1521. Special assessments, petition, funds, how collected — added to annual real estate bill, Boone County.
- 90.101. Numbers of commissioners — vacancy in board of commissioners, how filled.
- 475.115. Appointment of successor guardian or conservator — transfer of case, procedure.
- 479.011. Administrative adjudication of certain code violations, certain cities — authorization, rules requirements — tribunal designated by ordinance, procedures — evidence reviewed — imprisonment and fines limited — judicial review, lien imposed, when.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 55.030, 67.1521, 90.101, 475.115, and 479.011, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 55.030, 67.319, 67.451, 67.1521, 90.101, 475.115, and 479.011, to read as follows:

**55.030. TO PRESCRIBE ACCOUNTING SYSTEM — OTHER DUTIES (CERTAIN FIRST CLASS COUNTIES).** — The county auditor of a county [of the first class] having a charter form of government shall prescribe, with the approval of the governing body of the county and the state auditor, the accounting system of the county. He shall keep accounts of all appropriations and expenditures made by the governing body of the county; and no warrant shall be drawn or obligation incurred without his certification that an unencumbered balance, sufficient to pay the same, remains in the appropriation account against which such warrant or obligation is to be charged. He shall audit and examine all accounts, demands, and claims of every kind and character presented for payment against such county, and shall approve to the governing body of the county all lawful, true, and just accounts, demands, and claims of every kind and character payable out of the county revenue or out of any county funds before the same shall be allowed and a warrant issued therefor. Whenever the county auditor deems it necessary to the proper examination of any account, demand, or claim, he may examine the parties, witnesses, and others on oath or affirmation touching any matter or circumstance in the examination of such account, demand, or claim. At the direction of the governing body of the county, he shall audit the accounts of all officers and employees of the county and upon their retirement from office and shall keep a correct account between the county and all county officers; and he shall examine all records and settlements made by them for and with the governing body of the county or with each other; and the county auditor shall, at all reasonable times, have access to all books, county records, or papers

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kept by any county or township officer, employee, or road overseer. He may keep an inventory of all county property under the control and management of the various officers and departments and shall annually take an inventory of any such property at an original value of [two hundred fifty] **one thousand** dollars or more showing the amount, location and estimated value thereof. He shall perform such other duties in relation to the fiscal administration of the county as the governing body of the county shall from time to time prescribe. The county auditor shall not be personally liable for any costs for any proceeding instituted against him in his official capacity.

**67.319. WATER SERVICE LINES, REPAIR PROGRAMS, MUNICIPALITIES AND CERTAIN DISTRICTS — FEE IMPOSED — BALLOT LANGUAGE — ADMINISTRATION — FEE ADDED TO GENERAL TAX LEVY BILL, WHEN. — 1. If approved by a majority of the voters voting on the proposal, any city, town, village, sewer district, or water supply district located within this state may, by ordinance, levy and impose annually, upon water service lines providing water service to residential property having four or fewer dwelling units within the jurisdiction of such city, town, village, sewer district, or water supply district a fee not to exceed one dollar per month or twelve dollars annually.**

**2. The ballot of submission shall be in substantially the following form:**

For the purpose of repair or replacement of water lines extending from the water main to a residential dwelling due to failure of the line, shall ..... (city, town, village, sewer district, or water supply district) be authorized to impose a fee not to exceed one dollar per month or twelve dollars annually on residential property for each water service line providing water service within the (city, town, village, sewer district, or water supply district) to residential property having four or fewer dwelling units for the purpose of paying for the costs of necessary water service line repairs or replacements?

☐ YES ☐ NO

**3. For the purpose of this section, a water service line may be defined by local ordinance, but may not include the water meter or exceed that portion of water piping and related valves and connectors which extends from the water mains owned by the utility or municipality distributing public water supply to the first opportunity for a connection or joint beyond the point of entry into the premises receiving water service, and may not include facilities owned by the utility or municipality distributing public water supply. For purposes of this section, repair may be defined and limited by local ordinance, and may include replacement or repairs.**

**4. If a majority of the voters voting thereon approve the proposal authorized in subsection 1 of this section, the governing body of the city, town, village, sewer district, or water supply district may enact an ordinance for the collection of such fee. The funds collected under such ordinance shall be deposited in a special account to be used solely for the purpose of paying for the reasonable costs associated with and necessary to administer and carry out the water service line repairs as defined in the ordinance and to reimburse the necessary costs of water service line repair or replacement. All interest generated on deposited funds shall be accrued to the special account established for the repair of water service lines.**

**5. The city, town, village, sewer district, or water supply district may establish, as provided in the ordinance, regulations necessary for the administration of collections, claims, repairs, replacements and all other activities necessary and convenient for the implementation of any ordinance adopted and approved under this section. The city, town, village, sewer district, or water supply district may administer the program or may contract with one or more persons, through a competitive process, to provide for administration of any portion of implementation activities of any ordinance adopted and approved under this section, and reasonable costs of administering the program may be paid from the special account established under this section.**

6. Notwithstanding any other provision of law to the contrary, the collector in any city, town, village, sewer district, or water supply district or county that adopts an ordinance under this section, who now or hereafter collects any fee to provide for, ensure or guarantee the repair of water service lines, may add such fee to the general tax levy bills of property owners within the city, town, village, sewer district, or water supply district or unincorporated area of the county. All revenues received on such combined bill which are for the purpose of providing for, ensuring or guaranteeing the repair of water service lines, shall be separated from all other revenues so collected and credited to the appropriate fund or account of the city, town, village, sewer district, or water supply district or county. The collector of the city, town, village, sewer district, or water supply district or county may collect such fee in the same manner and to the same extent as the collector now or hereafter may collect delinquent real estate taxes and tax bills.

**67.451. ORDINANCE ENFORCEMENT, SPECIAL TAX BILLS FOR RECOVERY OF COSTS. —** Any city in which voters have approved fees to recover costs associated with enforcement of municipal housing, property maintenance, or nuisance ordinances may issue a special tax bill against the property where such ordinance violations existed. The officer in charge of finance shall cause the amount of unrecovered costs to be included in a special tax bill or added to the annual real estate tax bill for the property at the collecting official's option, and the costs shall be collected by the city collector or other official collecting taxes in the same manner and procedure for collecting real estate taxes. If the cost is not paid, the tax bill shall be considered delinquent, and the collection of the delinquent bill shall be governed by laws governing delinquent and back taxes. The tax bill shall be deemed a personal debt against the owner from the date of issuance, and shall also be a lien on the property until paid. Notwithstanding any provision of the city's charter to the contrary, the city may provide, by ordinance, that the city may discharge the special tax bill upon a determination by the city that a public benefit will be gained by such discharge, and such discharge shall include any costs of tax collection, accrued interest, or attorney fees related to the special tax bill.

**67.1521. SPECIAL ASSESSMENTS, PETITION, FUNDS, HOW COLLECTED — ADDED TO ANNUAL REAL ESTATE BILL, BOONE COUNTY. —** 1. A district may levy by resolution one or more special assessments against real property within its boundaries, upon receipt of and in accordance with a petition signed by:

(1) Owners of real property collectively owning more than fifty percent by assessed value of real property within the boundaries of the district; and

(2) More than fifty percent per capita of the owners of all real property within the boundaries of the district.

2. The special assessment petition shall be in substantially the following form:

The ..... (insert name of district) Community Improvement District ("District") shall be authorized to levy special assessments against real property benefited within the District for the purpose of providing revenue for ..... (insert general description of specific service and/or projects) in the district, such special assessments to be levied against each tract, lot or parcel of real property listed below within the district which receives special benefit as a result of such service and/or projects, the cost of which shall be allocated among this property by ..... (insert method of allocation, e.g., per square foot of property, per square foot on each square foot of improvement, or by abutting foot of property abutting streets, roads, highways, parks or other improvements, or any other reasonable method) in an amount not to exceed ..... dollars per (insert unit of measure). Such authorization to levy the special assessment shall expire on ..... (insert date). The tracts of land located in the district which will receive special

benefit from this service and/or projects are: ..... (list of properties by common addresses and legal descriptions).

3. The method for allocating such special assessments set forth in the petition may be any reasonable method which results in imposing assessments upon real property benefited in relation to the benefit conferred upon each respective tract, lot or parcel of real property and the cost to provide such benefit.

4. By resolution of the board, the district may levy a special assessment rate lower than the rate ceiling set forth in the petition authorizing the special assessment and may increase such lowered special assessment rate to a level not exceeding the special assessment rate ceiling set forth in the petition without further approval of the real property owners; provided that a district imposing a special assessment pursuant to this section may not repeal or amend such special assessment or lower the rate of such special assessment if such repeal, amendment or lower rate will impair the district's ability to pay any liabilities that it has incurred, money that it has borrowed or obligations that it has issued.

5. Each special assessment which is due and owing shall constitute a perpetual lien against each tract, lot or parcel of property from which it is derived. Such lien may be foreclosed in the same manner as any other special assessment lien as provided in section 88.861. **Notwithstanding the provisions of this subsection and section 67.1541 to the contrary, in any county of the first classification with more than one hundred thirty-five thousand four hundred but fewer than one hundred thirty-five thousand five hundred inhabitants, the county collector may, upon certification by the district for collection, add each special assessment to the annual real estate tax bill for the property and collect the assessment in the same manner the collector uses for real estate taxes. In said counties, each special assessment remaining unpaid on the first day of January annually is delinquent and enforcement of collection of the delinquent bill by the county collector shall be governed by the laws concerning delinquent and back taxes. The lien may be foreclosed in the same manner as a tax upon real property by land tax sale under chapter 140 or, if applicable to that county, chapter 141.**

6. A separate fund or account shall be created by the district for each special assessment levied and each fund or account shall be identifiable by a suitable title. The proceeds of such assessments shall be credited to such fund or account. Such fund or account shall be used solely to pay the costs incurred in undertaking the specified service or project.

7. Upon completion of the specified service or project or both, the balance remaining in the fund or account established for such specified service or project or both shall be returned or credited against the amount of the original assessment of each parcel of property pro rata based on the method of assessment of such special assessment.

8. Any funds in a fund or account created pursuant to this section which are not needed for current expenditures may be invested by the board in accordance with applicable laws relating to the investment of funds of the city in which the district is located.

9. The authority of the district to levy special assessments shall be independent of the limitations and authorities of the municipality in which it is located; specifically, the provisions of section 88.812 shall not apply to any district.

**90.101. NUMBERS OF COMMISSIONERS — VACANCY IN BOARD OF COMMISSIONERS, HOW FILLED. — 1. Notwithstanding any law to the contrary, the board of commissioners of Tower Grove Park shall have the authority to adjust the size of its membership, provided that any such adjustment shall be approved by a majority vote of the board members.**

**2. Notwithstanding any law to the contrary, in case of any vacancy occurring in the membership of the board of commissioners of Tower Grove Park from death, resignation, or disqualification to act, the vacancy shall be filled by appointment from the remaining members of**



the board, or a majority of them, for the balance of the term then vacant, and all vacancies caused by the expiration of the term of office shall be filled by appointment from the judges of the supreme court of the state of Missouri, or a majority of them or if said judges are unable or unwilling to so act, which shall be presumed by their failure to act within thirty days following delivery to the court of a slate of appointees, by the majority vote of the remaining board members.

**475.115. APPOINTMENT OF SUCCESSOR GUARDIAN OR CONSERVATOR — TRANSFER OF CASE, PROCEDURE. — 1.** When a guardian or conservator dies, is removed by order of the court, or resigns and his **or her** resignation is accepted by the court, the court shall have the same authority as it has in like cases over personal representatives and their sureties and may appoint another guardian or conservator in the same manner and subject to the same requirements as are herein provided for an original appointment of a guardian or conservator.

**2. A public administrator may request transfer of any case to the jurisdiction of another county by filing a petition for transfer. If the receiving county meets the venue requirements of section 475.035 and the public administrator of the receiving county consents to the transfer, the court shall transfer the case. The court with jurisdiction over the receiving county shall, without the necessity of any hearing as required by section 475.075, appoint the public administrator of the receiving county as successor guardian and/or successor conservator and issue letters therein. In the case of a conservatorship, the final settlement of the public administrator's conservatorship shall be filed within thirty days of the court's transfer of the case, in the court with jurisdiction over the original conservatorship, and forwarded to the receiving county upon audit and approval.**

**479.011. ADMINISTRATIVE ADJUDICATION OF CERTAIN CODE VIOLATIONS, CERTAIN CITIES — AUTHORIZATION, RULES REQUIREMENTS — TRIBUNAL DESIGNATED BY ORDINANCE, PROCEDURES — EVIDENCE REVIEWED — IMPRISONMENT AND FINES LIMITED — JUDICIAL REVIEW, LIEN IMPOSED, WHEN. — 1. (1) The following cities may establish an administrative adjudication system under this section:**

- (a) Any city not within a county [or] ;**
- (b) Any home rule city with more than four hundred thousand inhabitants and located in more than one county; and**
- (c) Any home rule city with more than seventy-three thousand but fewer than seventy-five thousand inhabitants.**

**(2) The cities listed in subdivision (1) of this subsection** may establish, by order or ordinance, an administrative system for adjudicating **housing, property maintenance, nuisance,** parking, and other civil, nonmoving municipal code violations consistent with applicable state law. Such administrative adjudication system shall be subject to practice, procedure, and pleading rules established by the state supreme court, circuit court, or municipal court. This section shall not be construed to affect the validity of other administrative adjudication systems authorized by state law and created before August 28, 2004.

2. The order or ordinance creating the administrative adjudication system shall designate the administrative tribunal and its jurisdiction, including the code violations to be reviewed. The administrative tribunal may operate under the supervision of the municipal court, parking commission, or other entity designated by order or ordinance and in a manner consistent with state law. The administrative tribunal shall adopt policies and procedures for administrative hearings, and filing and notification requirements for appeals to the municipal or circuit court, subject to the approval of the municipal or circuit court.

3. The administrative adjudication process authorized in this section shall ensure a fair and impartial review of contested municipal code violations, and shall afford the parties due process of law. The formal rules of evidence shall not apply in any administrative review or hearing

authorized in this section. Evidence, including hearsay, may be admitted only if it is the type of evidence commonly relied upon by reasonably prudent persons in the conduct of their affairs. The code violation notice, property record, and related documentation in the proper form, or a copy thereof, shall be prima facie evidence of the municipal code violation. The officer who issued the code violation citation need not be present.

4. An administrative tribunal may not impose incarceration or any fine in excess of the amount allowed by law. Any sanction, fine or costs, or part of any fine, other sanction, or costs, remaining unpaid after the exhaustion of, or the failure to exhaust, judicial review procedures under chapter 536 shall be a debt due and owing the city, and may be collected in accordance with applicable law.

5. Any final decision or disposition of a code violation by an administrative tribunal shall constitute a final determination for purposes of judicial review. Such determination is subject to review under chapter 536 or, at the request of the defendant made within ten days, a trial de novo in the circuit court. After expiration of the judicial review period under chapter 536, unless stayed by a court of competent jurisdiction, the administrative tribunal's decisions, findings, rules, and orders may be enforced in the same manner as a judgment entered by a court of competent jurisdiction. Upon being recorded in the manner required by state law or the uniform commercial code, a lien may be imposed on the real or personal property of any defendant entering a plea of nolo contendere, pleading guilty to, or found guilty of a municipal code violation in the amount of any debt due the city under this section and enforced in the same manner as a judgment lien under a judgment of a court of competent jurisdiction. **The city may also issue a special tax bill to collect fines issued for housing, property maintenance, and nuisance code violations.**

Approved July 8, 2011

## HB 149 [SCS HB 149]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Removes the expiration and termination dates for the provisions which allow an individual or corporation to designate part of a tax refund to the Missouri Military Family Relief Fund**

AN ACT to repeal section 143.1004, RSMo, and to enact in lieu thereof one new section relating to the Missouri military family relief fund.

### SECTION

A. Enacting clause.

143.1004. Tax refund may be designated to the Missouri military family relief fund.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Section 143.1004, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 143.1004, to read as follows:

**143.1004. TAX REFUND MAY BE DESIGNATED TO THE MISSOURI MILITARY FAMILY RELIEF FUND.** — 1. In each taxable year beginning on or after January 1, 2005, each individual or corporation entitled to a tax refund in an amount sufficient to make a designation under this section may designate that one dollar or any amount in excess of one dollar on a single return, and two dollars or any amount in excess of two dollars on a combined return, of the refund due be

credited to the Missouri military family relief fund. The contribution designation authorized by this section shall be clearly and unambiguously printed on the first page of each income tax return form provided by this state. If any individual or corporation that is not entitled to a tax refund in an amount sufficient to make a designation under this section wishes to make a contribution to the Missouri military family relief fund, such individual or corporation may, by separate check, draft, or other negotiable instrument, send in with the payment of taxes, or may send in separately, that amount, clearly designated for the Missouri military family relief fund, the individual or corporation wishes to contribute. The department of revenue shall deposit such amount to the Missouri military family relief fund as provided in subsection 2 of this section.

2. The director of revenue shall deposit at least monthly all contributions designated by individuals under this section to the state treasurer for deposit to the Missouri military family relief fund. The fund shall be administered by a sergeant major of the Missouri national guard, a sergeant major of a reserve component or its equivalent, and a representative of the Missouri veterans commission.

3. The director of revenue shall deposit at least monthly all contributions designated by the corporations under this section, less an amount sufficient to cover the cost of collection, handling, and administration by the department of revenue during fiscal year 2006, to the Missouri military family relief fund, not to exceed seventy thousand dollars.

4. A contribution designated under this section shall only be deposited in the Missouri military family relief fund after all other claims against the refund from which such contribution is to be made have been satisfied.

5. Moneys deposited in the Missouri military family relief fund shall be distributed by the adjutant general in accordance with the provisions of sections 41.216 and 41.218.

6. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

[7. Pursuant to section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after August 28, 2005, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on December thirty-first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.]

Approved July 14, 2011

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## HB 151 [HB 151]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Authorizes an individual or corporation to designate all or a portion of his or her income tax refund to the Organ Donor Program or to send a separate check with the payment of his or her taxes**

AN ACT to amend chapter 143, RSMo, by adding thereto one new section relating to donations to the organ donor program fund.

### SECTION

A. Enacting clause.

143.1016. Organ Donor Program fund, designation of refund permitted — director's duties — sunset provision.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Chapter 143, RSMo, is amended by adding thereto one new section, to be known as section 143.1016, to read as follows:

**143.1016. ORGAN DONOR PROGRAM FUND, DESIGNATION OF REFUND PERMITTED — DIRECTOR'S DUTIES — SUNSET PROVISION.** — **1.** For all tax years beginning on or after January 1, 2011, each individual or corporation entitled to a tax refund in an amount sufficient to make a designation under this section may designate that two dollars or any amount in excess of two dollars on a single return, and four dollars or any amount in excess of four dollars on a combined return, of the refund due be credited to the organ donor program fund established in section 194.297. The contribution designation authorized by this section shall be clearly and unambiguously printed on each income tax return form provided by this state. If any individual that is not entitled to a tax refund in an amount sufficient to make a designation under this section wishes to make a contribution to the organ donor program fund, such individual may, by separate check, draft, or other negotiable instrument, send in with the payment of taxes, or may send in separately, clearly designated for the organ donor program fund, the amount the individual wishes to contribute. The department of revenue shall deposit such amount to the organ donor program fund as provided in subsection 2 of this section.

**2.** The director of revenue shall transfer at least monthly all contributions designated by individuals under this section, less an amount sufficient to cover the cost of collecting and handling by the department of revenue which shall not exceed five percent of the transferred contributions, to the state treasurer for deposit in the state treasury to the credit of the organ donor program fund. A contribution designated under this section shall only be transferred and deposited in the organ donor program fund after all other claims against the refund from which such contribution is to be made have been satisfied.

**3.** All moneys transferred to the fund shall be distributed as provided in this section and sections 194.297 and 194.299.

**4.** Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset on December thirty-first six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset on December thirty-first twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

Approved July 11, 2011

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HB 161 [SS SCS HCS HB 161]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Changes the laws regarding certain taxes imposed by political subdivisions**

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AN ACT to repeal sections 67.1000, 67.1002, 67.1003, 67.1005, 67.1006, 67.1303, 67.1956, 94.900, and 181.060, RSMo, and to enact in lieu thereof nine new sections relating to certain taxes imposed by local governments.

SECTION

- A. Enacting clause.
- 67.1000. Transient guests to pay tax on sleeping rooms in hotels and motels, purpose to fund convention and visitors bureau, any county and certain cities — limitation on tax, certain cities and counties.
- 67.1002. Ballot form — tax to be effective when — collection of tax, options — penalty on unpaid taxes — delinquent when, any county and certain cities.
- 67.1003. Transient guest tax on hotels and motels in counties and cities meeting a room requirement or a population requirement, amount, issue submitted to voters, ballot language.
- 67.1006. Transient guests to pay tax on sleeping rooms in hotels or motels — rate — election, ballot form — purpose, tourism — rate of tax change, procedure (Pettis County).
- 67.1303. Sales tax authorized in certain cities and counties, rate — ballot, effective date — use of revenue, limitations — deposit of funds — economic development tax board required, membership, terms — board duties — annual report — repeal.
- 67.1956. Board of directors, members, terms, duties.
- 94.900. Sales tax authorized (Blue Springs, Excelsior Springs, Harrisonville, Peculiar, St. Joseph) — proceeds to be used for public safety purposes — ballot language — collection of tax, procedure.
- 181.060. State aid for public libraries — appropriation, distribution, allocation, procedure — requirements.
- 182.802. Public libraries, sales tax authorized — ballot language — definitions (Butler, Dunklin, New Madrid, Ripley, Stoddard, and Wayne counties)
- 67.1005. Transient guest tax on hotels and motels in cities and counties — issue submitted to voters, ballot language.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 67.1000, 67.1002, 67.1003, 67.1005, 67.1006, 67.1303, 67.1956, 94.900, and 181.060, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 67.1000, 67.1002, 67.1003, 67.1006, 67.1303, 67.1956, 94.900, 181.060, and 182.802, to read as follows:

**67.1000. TRANSIENT GUESTS TO PAY TAX ON SLEEPING ROOMS IN HOTELS AND MOTELS, PURPOSE TO FUND CONVENTION AND VISITORS BUREAU, ANY COUNTY AND CERTAIN CITIES — LIMITATION ON TAX, CERTAIN CITIES AND COUNTIES.** — 1. The governing body of **the following cities and counties may impose a tax as provided in this section;**

- (1) Any county [or of] ;
- (2) Any city which is the county seat of any county or which now or hereafter has a population of more than three thousand five hundred inhabitants and which has heretofore been authorized by the general assembly[, or of] ;
- (3) **Any city or county with more than three hundred fifty hotel and motel rooms within the boundaries of such city or county;**
- (4) Any other city which has a population of more than eighteen thousand and less than forty-five thousand inhabitants located in a county of the first classification with a population over two hundred thousand adjacent to a county of the first classification with a population over nine hundred thousand[.].

**2. The governing body of any city or county listed in subsection 1 of this section** may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city or county, which shall be not more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at an election permitted under section 115.123 a proposal to authorize the governing body of the city or county to impose a tax under the provisions of this section and section 67.1002. The tax authorized by this section and section 67.1002 shall be in addition to the charge for the sleeping room and shall be in addition to any and all taxes imposed by law and the proceeds of such tax shall be used by the city or county solely for funding a convention and visitors bureau which shall be a general not-for-profit organization with

whom the city or county has contracted, and which is established for the purpose of promoting the city or county as a convention, visitor and tourist center. Such tax shall be stated separately from all other charges and taxes.

[2.] **3. As used in this section and section 67.1002, the term "transient guests" means a person or persons who occupy a room or rooms in a hotel or motel for thirty-one days or less during any calendar quarter, except that** in any county of the third classification without a township form of government and with more than forty-one thousand one hundred but fewer than forty-one thousand two hundred inhabitants, "transient guests"[, as used in this section and section 67.1002,] means a person or persons who occupy a room or rooms in a hotel or motel for ninety days or less during any calendar quarter.

[3.] **4.** Provisions of this section to the contrary notwithstanding, the governing body of any home rule city with more than thirty-nine thousand six hundred but fewer than thirty-nine thousand seven hundred inhabitants and partially located in any county of the first classification with more than seventy-one thousand three hundred but fewer than seventy-one thousand four hundred inhabitants may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city, which shall be not more than seven percent per occupied room per night, except that such tax shall not become effective unless the governing body of such city submits to the voters of the city at an election permitted under section 115.123 a proposal to authorize the governing body of the city to impose a tax under the provisions of this [section] **subsection** and section 67.1002. The tax authorized by this [section] **subsection** and section 67.1002 shall be in addition to the charge for the sleeping room and shall be in addition to any and all taxes imposed by law and the proceeds of such tax shall be used by the city solely for funding a convention and visitors bureau which shall be a general not-for-profit organization with whom the city has contracted, and which is established for the purpose of promoting the city as a convention, visitor, and tourist center. Such tax shall be stated separately from all other charges and taxes.

**5. Notwithstanding any other provision of law to the contrary, the tax authorized in this section shall not be imposed by the following cities or counties:**

**(1) Any city or county already imposing a tax solely on the charges for sleeping rooms paid by the transient guests of hotels or motels situated in any such city or county under any other law of this state;**

**(2) Any city not already imposing a tax under this section and that is located in whole or partially within a county that already imposes a tax solely on the charges for sleeping rooms paid by the transient guests of hotels or motels situated in such county under this section or any other law of this state; or**

**(3) Any county not already imposing a tax under this section and that has a city located in whole or in part within its boundaries that already imposes a tax solely on the charges for sleeping rooms paid by the transient guests of hotels or motels situated in such city under this section or any other law of this state.**

**6. This section shall not be construed as repealing any taxes levied by any city or county on transient guests as permitted under this chapter or chapter 94 as of August 28, 2011.**

**67.1002. BALLOT FORM — TAX TO BE EFFECTIVE WHEN — COLLECTION OF TAX, OPTIONS — PENALTY ON UNPAID TAXES — DELINQUENT WHEN, ANY COUNTY AND CERTAIN CITIES. — 1.** The question shall be submitted in substantially the following form:

Shall the ..... (City or County) levy a tax of ..... percent on each sleeping room occupied and rented by transient guests of hotels and motels located in the city or county, where the proceeds of which shall be expended for promotion of tourism **or funding a convention and visitors bureau?**

[ ] YES [ ] NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the governing body for the city or county shall have no power to impose the tax authorized by this section unless and until the governing body of the city or county again submits the question to the qualified voters of the city or county and such question is approved by a majority of the qualified voters voting on the question.

2. On and after the effective date of any tax authorized under the provisions of this section and section 67.1000, the city or county which levied the tax may adopt one of the two following provisions for the collection and administration of the tax:

(1) The city or county which levied the tax may adopt rules and regulations for the internal collection of such tax by the city or county officers usually responsible for collection and administration of city or county taxes; or

(2) The city or county may enter into an agreement with the director of revenue of the state of Missouri for the purpose of collecting the tax authorized in this section and section 67.1000. In the event any city or county enters into an agreement with the director of revenue of the state of Missouri for the collection of the tax authorized in this section and section 67.1000, the director of revenue shall perform all functions incident to the administration, collection, enforcement and operation of such tax, and the director of revenue shall collect the additional tax authorized under the provisions of this section and section 67.1000. The tax authorized under the provisions of this section and section 67.1000 shall be collected and reported upon such forms and under such administrative rules and regulations as may be prescribed by the director of revenue, and the director of revenue shall retain not less than one percent nor more than three percent for cost of collection.

3. If a tax is imposed by a city or county under this section and section 67.1000, the city or county may collect a penalty of one percent and interest not to exceed two percent per month on unpaid taxes which shall be considered delinquent thirty days after the last day of each quarter.

**67.1003. TRANSIENT GUEST TAX ON HOTELS AND MOTELS IN COUNTIES AND CITIES MEETING A ROOM REQUIREMENT OR A POPULATION REQUIREMENT, AMOUNT, ISSUE SUBMITTED TO VOTERS, BALLOT LANGUAGE.** — 1. The governing body of the following cities and counties may impose a tax as provided in this section:

(1) Any city or county[, other than a city or county already imposing a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in such city or county or a portion thereof pursuant to any other law of this state,] having more than three hundred fifty hotel and motel rooms inside such city or county;

(2) A county of the third classification with a population of more than seven thousand but less than seven thousand four hundred inhabitants;

(3) A third class city with a population of greater than ten thousand but less than eleven thousand located in a county of the third classification with a township form of government with a population of more than thirty thousand;

(4) A county of the third classification with a township form of government with a population of more than twenty thousand but less than twenty-one thousand;

(5) Any third class city with a population of more than eleven thousand but less than thirteen thousand which is located in a county of the third classification with a population of more than twenty-three thousand but less than twenty-six thousand;

(6) Any city of the third classification with more than ten thousand five hundred but fewer than ten thousand six hundred inhabitants;

(7) Any city of the third classification with more than twenty-six thousand three hundred but fewer than twenty-six thousand seven hundred inhabitants;

(8) Any city of the third classification with more than ten thousand eight hundred but fewer than ten thousand nine hundred inhabitants and located in more than one county.

2. The governing body of any city or county listed in subsection 1 of this section may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city or county or a portion thereof, which shall be not more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at a state general or primary election a proposal to authorize the governing body of the city or county to impose a tax pursuant to this section. The tax authorized by this section shall be in addition to the charge for the sleeping room and shall be in addition to any and all taxes imposed by law and the proceeds of such tax shall be used by the city or county solely for the promotion of tourism. Such tax shall be stated separately from all other charges and taxes.

3. Notwithstanding any other provision of law to the contrary, **except as provided in subsection 5 of this section**, the tax authorized in **subsection 1 of this section** shall not be imposed [in any city or county already imposing such tax pursuant to any other law of this state, except that] **by the following cities or counties:**

**(1) Any city or county already imposing a tax solely on the charges for sleeping rooms paid by the transient guests of hotels or motels situated in any such city or county under any other law of this state;**

**(2) Any city not already imposing a tax under this section and that is located in whole or partially within a county that already imposes a tax solely on the charges for sleeping rooms paid by the transient guests of hotels or motels situated in such county under this section or any other law of this state; or**

**(3) Any county not already imposing a tax under this section and that has a city located in whole or in part within its boundaries that already imposes a tax solely on the charges for sleeping rooms paid by the transient guests of hotels or motels situated in such city under this section or any other law of this state.**

4. Cities of the third class having more than two thousand five hundred hotel and motel rooms, and located in a county of the first classification in which and where another tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in such county is imposed, may impose the tax authorized by this section of not more than one-half of one percent per occupied room per night.

**[4.] 5. The governing body of any city of the fourth classification with more than fifty-one thousand inhabitants located in a county with a charter form of government and with more than two hundred fifty thousand inhabitants which adjoins another county with a charter form of government and with more than one million inhabitants may impose a tax on the charges for all sleeping rooms paid by the transient guest of hotels or motels situated in such city or a portion thereof, which tax shall be not more than two percent per occupied room per night, except that such tax shall not become effective unless the governing body of such city submits, after January 1, 2012, to the voters of that city, at an election permitted under section 115.123, a proposal to authorize the governing body of the city to impose a tax under this section. The tax authorized by this section shall be in addition to any and all other taxes imposed by law, and the proceeds of such tax shall be used by the city solely for the promotion of tourism. Such tax shall be stated separately from all other charges and taxes.**

6. The ballot of submission for [the] any tax authorized in this section shall be in substantially the following form:



Shall (insert the name of the city or county) impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in (name of city or county) at a rate of (insert rate of percent) percent for the sole purpose of promoting tourism?

☐ YES ☐ NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question.

[5.] 7. As used in this section, "transient guests" means a person or persons who occupy a room or rooms in a hotel or motel for thirty-one days or less during any calendar quarter.

**8. This section shall not be construed as repealing any taxes levied by any city or county on transient guests as permitted under this chapter or chapter 94 as of August 28, 2011.**

**67.1006. TRANSIENT GUESTS TO PAY TAX ON SLEEPING ROOMS IN HOTELS OR MOTELS — RATE — ELECTION, BALLOT FORM — PURPOSE, TOURISM — RATE OF TAX CHANGE, PROCEDURE (PETTIS COUNTY).** — 1. In any county of the second class which has a two-year community college and is located south of the Missouri River and adjacent to a county of the second class which contains a state educational institution described as a state teachers college in paragraph (c) of subdivision (5) of section 176.010, a proposal to authorize the governing body of the county to impose a tax may be submitted to the voters of the county at a state general, primary or special election as follows:

(1) By a majority vote of the county governing body; or

(2) Upon petition of eight percent of the voters who cast votes for the member of the county governing body who received the highest number of votes at the last election in which members of the governing body were elected, the county clerk shall submit the proposal to the voters of the county. The tax shall be levied on the sales or charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the county at a rate not to exceed two dollars per room per night. The tax authorized by sections 67.1006 to 67.1012 shall be in addition to any and all taxes imposed by law and shall be stated separately from all other charges and taxes.

2. The question shall be submitted in substantially the following form:

Shall there be imposed in the county of ..... (name of county) a tax of ..... (rate of tax) on each sleeping room occupied and rented by transient guests of hotels and motels located in the county, the proceeds of which shall be expended for tourism purposes?

☐ YES ☐ NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax authorized by sections 67.1006 to 67.1012 shall not become effective unless and until the question is resubmitted under the provisions of sections 67.1006 to 67.1012 to the qualified voters of the county and such question is approved by a majority of the qualified voters of the county voting on the question.

**3. The governing body of any county imposing a tax under this section may, by order or ordinance, change the rate of such tax from two dollars per room per night to not more than five percent per occupied room per night. No such order or ordinance shall become effective unless the governing body of the county submits to the voters of the county at a state general, primary, or special election a proposal to authorize the governing body of the county to change the rate of tax imposed under this section. If a majority of the votes cast**

on the question by the qualified voters voting thereon are in favor of the question, then the change in the tax rate shall become effective on the first day of the second calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the change in the tax rate shall not become effective unless and until the question is resubmitted under this section to the qualified voters of the county and such question is approved by a majority of the qualified voters voting on the question.

**67.1303. SALES TAX AUTHORIZED IN CERTAIN CITIES AND COUNTIES, RATE — BALLOT, EFFECTIVE DATE — USE OF REVENUE, LIMITATIONS — DEPOSIT OF FUNDS — ECONOMIC DEVELOPMENT TAX BOARD REQUIRED, MEMBERSHIP, TERMS — BOARD DUTIES — ANNUAL REPORT — REPEAL.** — 1. The governing body of any home rule city with more than one hundred fifty-one thousand five hundred but less than one hundred fifty-one thousand six hundred inhabitants, any home rule city with more than forty-five thousand five hundred but less than forty-five thousand nine hundred inhabitants and the governing body of any city within any county of the first classification with more than one hundred four thousand six hundred but less than one hundred four thousand seven hundred inhabitants and the governing body of any county of the third classification without a township form of government and with more than forty thousand eight hundred but less than forty thousand nine hundred inhabitants or any city within such county may impose, by order or ordinance, a sales tax on all retail sales made in the city or county which are subject to sales tax under chapter 144. In addition, the governing body of any county of the first classification with more than eighty-five thousand nine hundred but less than eighty-six thousand inhabitants or the governing body of any home rule city with more than seventy-three thousand but less than seventy-five thousand inhabitants may impose, by order or ordinance, a sales tax on all retail sales made in the city or county which are subject to sales tax under chapter 144. The tax authorized in this section shall not be more than one-half of one percent. The order or ordinance imposing the tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at a state general or primary election a proposal to authorize the governing body to impose a tax under this section. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes.

2. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall ..... (insert the name of the city or county) impose a sales tax at a rate of ..... (insert rate of percent) percent for economic development purposes?

[ ] YES [ ] NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question, provided that no proposal shall be resubmitted to the voters sooner than twelve months from the date of the submission of the last proposal.

3. No revenue generated by the tax authorized in this section shall be used for any retail development project. At least twenty percent of the revenue generated by the tax authorized in this section shall be used solely for projects directly related to long-term economic development preparation, including, but not limited to, the following:

- (1) Acquisition of land;
- (2) Installation of infrastructure for industrial or business parks;

- (3) Improvement of water and wastewater treatment capacity;
- (4) Extension of streets;
- (5) Providing matching dollars for state or federal grants;
- (6) Marketing;
- (7) **Construction of job training and educational facilities; and**

(8) Providing grants and low-interest loans to companies for job training, equipment acquisition, site development, and infrastructure. Not more than twenty-five percent of the revenue generated may be used annually for administrative purposes, including staff and facility costs.

4. All revenue generated by the tax shall be deposited in a special trust fund and shall be used solely for the designated purposes. If the tax is repealed, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes. Any funds in the special trust fund which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other city or county funds.

5. Any city or county imposing the tax authorized in this section shall establish an economic development tax board. The board shall consist of eleven members, to be appointed as follows:

(1) Two members shall be appointed by the school boards whose districts are included within any economic development plan or area funded by the sales tax authorized in this section. Such members shall be appointed in any manner agreed upon by the affected districts;

(2) One member shall be appointed, in any manner agreed upon by the affected districts, to represent all other districts levying ad valorem taxes within the area selected for an economic development project or area funded by the sales tax authorized in this section, excluding representatives of the governing body of the city or county;

(3) One member shall be appointed by the largest public school district in the city or county;

(4) In each city or county, five members shall be appointed by the chief elected officer of the city or county with the consent of the majority of the governing body of the city or county;

(5) In each city, two members shall be appointed by the governing body of the county in which the city is located. In each county, two members shall be appointed by the governing body of the county. At the option of the members appointed by a city or county the members who are appointed by the school boards and other taxing districts may serve on the board for a term to coincide with the length of time an economic development project, plan, or designation of an economic development area is considered for approval by the board, or for the definite terms as provided in this subsection. If the members representing school districts and other taxing districts are appointed for a term coinciding with the length of time an economic development project, plan, or area is approved, such term shall terminate upon final approval of the project, plan, or designation of the area by the governing body of the city or county. If any school district or other taxing jurisdiction fails to appoint members of the board within thirty days of receipt of written notice of a proposed economic development plan, economic development project, or designation of an economic development area, the remaining members may proceed to exercise the power of the board. Of the members first appointed by the city or county, three shall be designated to serve for terms of two years, three shall be designated to serve for a term of three years, and the remaining members shall be designated to serve for a term of four years from the date of such initial appointments. Thereafter, the members appointed by the city or county shall serve for a term of four years, except that all vacancies shall be filled for unexpired terms in the same manner as were the original appointments.

6. The board, subject to approval of the governing body of the city or county, shall develop economic development plans, economic development projects, or designations of an economic development area, and shall hold public hearings and provide notice of any such hearings. The board shall vote on all proposed economic development plans, economic development projects, or designations of an economic development area, and amendments thereto, within thirty days following completion of the hearing on any such plan, project, or designation, and shall make recommendations to the governing body within ninety days of the hearing concerning the adoption

of or amendment to economic development plans, economic development projects, or designations of an economic development area.

7. The board shall report at least annually to the governing body of the city or county on the use of the funds provided under this section and on the progress of any plan, project, or designation adopted under this section.

8. The governing body of any city or county that has adopted the sales tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the city or county. The ballot of submission shall be in substantially the following form:

Shall ..... (insert the name of the city or county) repeal the sales tax imposed at a rate of ..... (insert rate of percent) percent for economic development purposes?

[ ] YES [ ] NO

If a majority of the votes cast on the proposal are in favor of repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters of the city or county, and the repeal is approved by a majority of the qualified voters voting on the question.

9. Whenever the governing body of any city or county that has adopted the sales tax authorized in this section receives a petition, signed by ten percent of the registered voters of the city or county voting in the last gubernatorial election, calling for an election to repeal the sales tax imposed under this section, the governing body shall submit to the voters a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the tax shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

**67.1956. BOARD OF DIRECTORS, MEMBERS, TERMS, DUTIES.** — 1. In each tourism community enhancement district established pursuant to section 67.1953, there shall be a board of directors, to consist of seven members. Three members shall be selected by the governing body of the city, town or village located within the district that collected the largest amount of retail sales tax within the district in the year preceding the establishment of the district. Two members shall be selected by the governing body of the city, town or village, located within the district, that collected the second largest amount of retail sales tax within the district in the year preceding the establishment of the district, if such a city, town or village exists in the district. If no such city, town or village exists in the district then two additional members shall be selected by the governing body of the city, town, or village located within the district that collected the largest amount of retail sales tax within the district in the year preceding the establishment of the district. One member shall be selected by the governing body of the county located within the district that collected the largest amount of retail sales tax within the district in the year preceding the establishment of the district. One member shall be selected by the governing body of the county located within the district that collected the second largest amount of retail sales tax within the district in the year preceding the establishment of the district.

2. Of the members first selected, the three members [from] **selected by** the city, town or village located within the district that collected the largest amount of retail sales tax within the district in the year preceding the establishment of the district shall be selected for a term of three years, the two members [from] **selected by** the city, town, or village located within the district that

collected the second largest amount of retail sales tax within the district in the year preceding the establishment of the district shall be selected for a term of two years, and the remaining members shall be selected for a term of one year. Thereafter, each member selected shall serve a three-year term. **Except in any city of the fourth classification with more than two thousand nine hundred but fewer than three thousand inhabitants and located in any county of the first classification with more than seventy-three thousand seven hundred but fewer than seventy-three thousand eight hundred inhabitants,** every member shall be either a resident of the district, own real property within the district, be employed by a business within the district, or operate a business within the district. All members shall serve without compensation. The board shall elect its own treasurer, secretary and such other officers as it deems necessary and expedient, and it may make such rules, regulations, and bylaws to carry out its duties pursuant to sections 67.1950 to 67.1977.

3. Any vacancy within the board shall be filled in the same manner as the person who vacated the position was selected within sixty days of the vacancy occurring, with the new person serving the remainder of the term of the person who vacated the position. In the event that a person is not so selected within sixty days of the vacancy occurring, the remaining members of the board shall select a person to serve the remainder of the term of the person who vacated the position.

4. If a tourism community enhancement district is already in existence on August 28, 2005, the one additional board member shall be appointed by the governing body of the city, town, or village located within the district that collected the largest amount of retail sales tax within the district in the year preceding the establishment of the district for a one-year term and the other additional board member shall be appointed by the governing body of the county located within the district that collected the second largest amount of retail sales tax within the district in the year preceding the establishment of the district for a two-year term, thereafter all board members shall serve three-year terms. The existing board members shall serve out their terms with the provisions of this section controlling the appointment of successor board members, with first and second **existing** board [existing] positions to expire to be appointed by the governing body of the city, town, or village located within the district that collected the largest amount of retail sales tax within the district in the year preceding the establishment of the district, the third and fourth existing board positions to expire to be appointed by the governing body of the city, town, or village located within the district that collected the second largest amount of retail sales tax within the district in the year preceding the establishment of the district and the fifth existing board position to expire to be appointed by the governing body of the county located within the district that collected the largest amount of retail sales tax within the district in the year preceding the establishment of the district.

5. The board, on behalf of the district, may:

- (1) Cooperate with public agencies and with any industry or business in the implementation of any project;
- (2) Enter into any agreement with any public agency, person, firm, or corporation to implement any of the provisions of sections 67.1950 to 67.1977;
- (3) Contract and be contracted with, and sue and be sued; and
- (4) Accept gifts, grants, loans, or contributions from the United States of America, the state, any political subdivision, foundation, other public or private agency, individual, partnership or corporation on behalf of the tourism enhancement district community.

**94.900. SALES TAX AUTHORIZED (BLUE SPRINGS, EXCELSIOR SPRINGS, HARRISONVILLE, PECULIAR, ST. JOSEPH) — PROCEEDS TO BE USED FOR PUBLIC SAFETY PURPOSES — BALLOT LANGUAGE — COLLECTION OF TAX, PROCEDURE. — 1. (1) The governing body of the following cities may impose a tax as provided in this section:**

(a) Any city of the third classification with more than ten thousand eight hundred but less than ten thousand nine hundred inhabitants located at least partly within a county of the first

classification with more than one hundred eighty-four thousand but less than one hundred eighty-eight thousand inhabitants[, or] ;

(b) Any city of the fourth classification with more than eight thousand nine hundred but fewer than nine thousand inhabitants[, or] ;

(c) Any city of the fourth classification with more than two thousand six hundred but fewer than two thousand seven hundred inhabitants and located in any county of the first classification with more than eighty-two thousand but fewer than eighty-two thousand one hundred inhabitants[, or] ;

(d) Any home rule city with more than forty-eight thousand but fewer than forty-nine thousand inhabitants;

(e) **Any home rule city with more than seventy-three thousand but fewer than seventy-five thousand inhabitants.**

(2) **The governing body of any city listed in subdivision (1) of this subsection** is hereby authorized to impose, by ordinance or order, a sales tax in the amount of up to one-half of one percent on all retail sales made in such city which are subject to taxation under the provisions of sections 144.010 to 144.525 for the purpose of improving the public safety for such city, including but not limited to expenditures on equipment, city employee salaries and benefits, and facilities for police, fire and emergency medical providers. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law, except that no ordinance or order imposing a sales tax pursuant to the provisions of this section shall be effective unless the governing body of the city submits to the voters of the city, at a county or state general, primary or special election, a proposal to authorize the governing body of the city to impose a tax.

2. If the proposal submitted involves only authorization to impose the tax authorized by this section, the ballot of submission shall contain, but need not be limited to, the following language:

Shall the city of ..... (city's name) impose a citywide sales tax of ..... (insert amount) for the purpose of improving the public safety of the city?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal submitted pursuant to this subsection, then the ordinance or order and any amendments thereto shall be in effect on the first day of the second calendar quarter after the director of revenue receives notification of adoption of the local sales tax. If a proposal receives less than the required majority, then the governing body of the city shall have no power to impose the sales tax herein authorized unless and until the governing body of the city shall again have submitted another proposal to authorize the governing body of the city to impose the sales tax authorized by this section and such proposal is approved by the required majority of the qualified voters voting thereon. However, in no event shall a proposal pursuant to this section be submitted to the voters sooner than twelve months from the date of the last proposal pursuant to this section.

3. All revenue received by a city from the tax authorized under the provisions of this section shall be deposited in a special trust fund and shall be used solely for improving the public safety for such city for so long as the tax shall remain in effect.

4. Once the tax authorized by this section is abolished or is terminated by any means, all funds remaining in the special trust fund shall be used solely for improving the public safety for the city. Any funds in such special trust fund which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other city funds.

5. All sales taxes collected by the director of the department of revenue under this section on behalf of any city, less one percent for cost of collection which shall be deposited in the state's

general revenue fund after payment of premiums for surety bonds as provided in section 32.087, shall be deposited in a special trust fund, which is hereby created, to be known as the "City Public Safety Sales Tax Trust Fund". The moneys in the trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The provisions of section 33.080 to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of the general revenue fund. The director of the department of revenue shall keep accurate records of the amount of money in the trust and which was collected in each city imposing a sales tax pursuant to this section, and the records shall be open to the inspection of officers of the city and the public. Not later than the tenth day of each month the director of the department of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the city which levied the tax; such funds shall be deposited with the city treasurer of each such city, and all expenditures of funds arising from the trust fund shall be by an appropriation act to be enacted by the governing body of each such city. Expenditures may be made from the fund for any functions authorized in the ordinance or order adopted by the governing body submitting the tax to the voters.

6. The director of the department of revenue may make refunds from the amounts in the trust fund and credited to any city for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such cities. If any city abolishes the tax, the city shall notify the director of the department of revenue of the action at least ninety days prior to the effective date of the repeal and the director of the department of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such city, the director of the department of revenue shall remit the balance in the account to the city and close the account of that city. The director of the department of revenue shall notify each city of each instance of any amount refunded or any check redeemed from receipts due the city.

7. Except as modified in this section, all provisions of sections 32.085 and 32.087 shall apply to the tax imposed pursuant to this section.

**181.060. STATE AID FOR PUBLIC LIBRARIES — APPROPRIATION, DISTRIBUTION, ALLOCATION, PROCEDURE — REQUIREMENTS.** — 1. The general assembly may appropriate moneys for state aid to public libraries, which moneys shall be administered by the state librarian, and distributed as specified in rules and regulations promulgated by the Missouri state library, and approved by the secretary of state.

2. At least fifty percent of the moneys appropriated for state aid to public libraries shall be apportioned to all public libraries established and maintained under the provisions of the library laws or other laws of the state relating to libraries. The allocation of the moneys shall be based on an equal per capita rate for the population of each city, village, town, township, urban public library district, county or consolidated library district in which any library is or may be established, in proportion to the population according to the latest federal census of the cities, villages, towns, townships, school districts, county or regional library districts maintaining public libraries primarily supported by public funds which are designed to serve the general public. No grant shall be made to any public library which is tax supported if the rate of tax levied or the appropriation for the library should be decreased below the rate in force on December 31, 1946, or on the date of its establishment. Grants shall be made to any public library if a public library tax of at least ten cents per one hundred dollars assessed valuation has been voted in accordance with sections 182.010 to 182.460, RSMo, or as authorized in section 137.030, RSMo, and is duly assessed and levied for the year preceding that in which the grant is made, or if the appropriation for the public library in any city of first class yields one dollar or more per capita for the previous year according to the population of the latest federal census or if the amount provided by the city for the public library, in any other city in which the library is not supported by a library tax, is at

least equal to the amount of revenue which would be realized by a tax of ten cents per one hundred dollars assessed valuation if the library had been tax supported. Except that, no grant under this section shall be affected because of a reduction in the rate of levy which is required by the provisions of section 137.073, RSMo, **or because of a voluntary reduction in the levy following the enactment of a district sales tax under section 182.802, if the proceeds from the sales tax equal or exceed the reduction in revenue from the levy.**

3. The librarian of the library together with the treasurer of the library or the treasurer of the city if there is no library treasurer shall certify to the state librarian the annual tax income and rate of tax or the appropriation for the library on the date of the enactment of this law, and of the current year, and each year thereafter, and the state librarian shall certify to the commissioner of administration the amount to be paid to each library.

4. The balance of the moneys shall be administered and supervised by the state librarian who may provide grants to public libraries for:

(1) Establishment, on a population basis to newly established city, county city/county or consolidated libraries;

(2) Equalization to city/county[.], urban public, county or consolidated libraries;

(3) Reciprocal borrowing;

(4) Technological development;

(5) Interlibrary cooperation;

(6) Literacy programs; and

(7) Other library projects or programs that may be determined by the local library, library advisory committee and the state library staff that would improve access to library services by the residents of this state. Newly established libraries shall certify through the legally established board or the governing body of the city supporting the library and the librarian of the library to the state librarian the fact of establishment, the rate of tax, the assessed valuation of the library district and the annual tax yield of the library. The state librarian shall then certify to the commissioner of administration the amount of establishment grant to be paid to the libraries and warrants shall be issued for the amount allocated and approved. The sum appropriated for state aid to public libraries shall be separate and apart from any and all appropriations made to the state library.

**182.802. PUBLIC LIBRARIES, SALES TAX AUTHORIZED — BALLOT LANGUAGE — DEFINITIONS (BUTLER, DUNKLIN, NEW MADRID, RIPLEY, STODDARD, AND WAYNE COUNTIES) — 1. A public library district located at least partially within any county of the third classification without a township form of government and with more than forty thousand eight hundred but fewer than forty thousand nine hundred inhabitants; any county of the third classification without a township form of government and with more than thirteen thousand five hundred but fewer than thirteen thousand six hundred inhabitants; any county of the third classification without a township form of government and with more than thirteen thousand two hundred but fewer than thirteen thousand three hundred inhabitants; any county of the third classification with a township form of government and with more than twenty-nine thousand seven hundred but fewer than twenty-nine thousand eight hundred inhabitants; any county of the second classification with more than nineteen thousand seven hundred but fewer than nineteen thousand eight hundred inhabitants; any county of the third classification with a township form of government and with more than thirty-three thousand one hundred but fewer than thirty-three thousand two hundred inhabitants; or any county of the third classification with a township form of government and with more than thirty-three thousand one hundred but fewer than thirty-three thousand two hundred inhabitants may, by a majority vote of its board of directors, impose a tax not to exceed one-half of one cent on all retail sales subject to taxation under sections 144.010 to 144.525 for the purpose of funding the operation and maintenance of public libraries within the boundaries of such library district. The tax**



authorized by this subsection shall be in addition to all other taxes allowed by law. No tax under this subsection shall become effective unless the board of directors submits to the voters of the district, at a county or state general, primary or special election, a proposal to authorize the tax, and such tax shall become effective only after the majority of the voters voting on such tax approve such tax.

2. In the event the district seeks to impose a sales tax under this subsection, the question shall be submitted in substantially the following form:

Shall a ..... cent sales tax be levied on all retail sales within the district for the purpose of providing funding for ..... library district?

[ ] YES [ ] NO

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the tax shall become effective. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the board of directors shall have no power to impose the tax unless and until another proposal to authorize the tax is submitted to the voters of the district and such proposal is approved by a majority of the qualified voters voting thereon. The provisions of sections 32.085 and 32.087 shall apply to any tax approved under this subsection.

3. As used in this section, "qualified voters" or "voters" means any individuals residing within the district who are eligible to be registered voters and who have registered to vote under chapter 115, or, if no individuals are eligible and registered to vote reside within the proposed district, all of the owners of real property located within the proposed district who have unanimously petitioned for or consented to the adoption of an ordinance by the governing body imposing a tax authorized in this section. If the owner of the property within the proposed district is a political subdivision or corporation of the state, the governing body of such political subdivision or corporation shall be considered the owner for purposes of this section.

4. For purposes of this section the term "public library district" shall mean any city library district, county library district, city-county library district, municipal library district, consolidated library district, or urban library district.

**[67.1005. TRANSIENT GUEST TAX ON HOTELS AND MOTELS IN CITIES AND COUNTIES — ISSUE SUBMITTED TO VOTERS, BALLOT LANGUAGE. —** 1. The governing body of any city or county, other than a city or county already imposing a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in such city or county or a portion thereof pursuant to any other law of this state, having more than three hundred fifty hotel and motel rooms inside such city or county may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city or county or a portion thereof, which shall be not more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at a state general or primary election a proposal to authorize the governing body of the city or county to impose a tax pursuant to this section and section 67.1002. The tax authorized by this section and section 67.1002 shall be in addition to the charge for the sleeping room and shall be in addition to any and all taxes imposed by law and the proceeds of such tax shall be used by the city or county solely for the promotion of tourism and for funding a convention and visitors bureau which shall be a general not-for-profit organization with whom the city or county has contracted, and which is established for the purpose of promoting the city or county as a convention, visitor and tourist center. Such tax shall be stated separately from all other charges and taxes.

2. The tax authorized in this section shall not be imposed in any city or county where another tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in such city or county or a portion thereof is imposed pursuant to any other law of this state, except that cities of the third class having more than two thousand five hundred hotel and motel rooms and located in a county of the first class where another tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in such county is imposed may impose the tax authorized in this section of not more than one-half percent per occupied room per night.

3. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall (insert the name of the city or county) impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in (name of city or county) at a rate of (insert rate of percent) percent?

☐ YES ☐ NO

4. As used in this section, "transient guests" shall mean a person or persons who occupy a room or rooms in a hotel or motel for thirty-one days or less during any calendar quarter.]

Approved July 7, 2011

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## HB 163 [SS SCS HCS HB 163]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Changes the laws regarding unemployment compensation and makes Missouri eligible to receive extended federal unemployment benefit funds**

AN ACT to repeal sections 288.040, 288.060, and 288.062, RSMo, and to enact in lieu thereof three new sections relating to unemployment compensation, with an emergency clause.

**SECTION**

- A. Enacting clause.
- 288.040. Eligibility for benefits — exceptions — report, contents.
- 288.060. Benefits, how paid — wage credits — benefits due decedent — benefit warrants cancelled, when — electronic funds transfer system, allowed — remote claims filing procedures required, contents, duties.
- 288.062. "On" and "Off" indicators, state and national, how determined — extended benefits, defined — amount and how computed.
- B. Emergency clause.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 288.040, 288.060, and 288.062, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 288.040, 288.060, and 288.062, to read as follows:

**288.040. ELIGIBILITY FOR BENEFITS — EXCEPTIONS — REPORT, CONTENTS.** — 1. A claimant who is unemployed and has been determined to be an insured worker shall be eligible for benefits for any week only if the deputy finds that:

(1) The claimant has registered for work at and thereafter has continued to report at an employment office in accordance with such regulations as the division may prescribe;

(2) The claimant is able to work and is available for work. No person shall be deemed available for work unless such person has been and is actively and earnestly seeking work. Upon the filing of an initial or renewed claim, and prior to the filing of each weekly claim thereafter, the deputy shall notify each claimant of the number of work search contacts required to constitute an active search for work. No person shall be considered not available for work, pursuant to this subdivision, solely because he or she is a substitute teacher or is on jury duty. A claimant shall not be determined to be ineligible pursuant to this subdivision because of not actively and earnestly seeking work if:

(a) The claimant is participating in training approved pursuant to Section 236 of the Trade Act of 1974, as amended, (19 U.S.C.A. Sec. 2296, as amended);

(b) The claimant is temporarily unemployed through no fault of his or her own and has a definite recall date within eight weeks of his or her first day of unemployment; however, upon application of the employer responsible for the claimant's unemployment, such eight-week period may be extended not to exceed a total of sixteen weeks at the discretion of the director;

(3) The claimant has reported in person to an office of the division as directed by the deputy, but at least once every four weeks, except that a claimant shall be exempted from the reporting requirement of this subdivision if:

(a) The claimant is claiming benefits in accordance with division regulations dealing with partial or temporary total unemployment; or

(b) The claimant is temporarily unemployed through no fault of his or her own and has a definite recall date within eight weeks of his or her first day of unemployment; or

(c) The claimant resides in a county with an unemployment rate, as published by the division, of ten percent or more and in which the county seat is more than forty miles from the nearest division office;

(d) The director of the division of employment security has determined that the claimant belongs to a group or class of workers whose opportunities for reemployment will not be enhanced by reporting in person, or is prevented from reporting due to emergency conditions that limit access by the general public to an office that serves the area where the claimant resides, but only during the time such circumstances exist. Ineligibility pursuant to this subdivision shall begin on the first day of the week which the claimant was scheduled to claim and shall end on the last day of the week preceding the week during which the claimant does report in person to the division's office;

(4) Prior to the first week of a period of total or partial unemployment for which the claimant claims benefits he or she has been totally or partially unemployed for a waiting period of one week. No more than one waiting week will be required in any benefit year. During calendar year 2008 and each calendar year thereafter, the one-week waiting period shall become compensable once his or her remaining balance on the claim is equal to or less than the compensable amount for the waiting period. No week shall be counted as a week of total or partial unemployment for the purposes of this subsection unless it occurs within the benefit year which includes the week with respect to which the claimant claims benefits;

(5) The claimant has made a claim for benefits within fourteen days from the last day of the week being claimed. The fourteen-day period may, for good cause, be extended to twenty-eight days;

(6) The claimant has reported to an employment office to participate in a reemployment assessment and reemployment services as directed by the deputy or designated staff of an employment office, unless the deputy determines that good cause exists for the claimant's failure to participate in such reemployment assessment and reemployment services. For purposes of this section, "reemployment services" may include, but not be limited to, the following:

- (a) Providing an orientation to employment office services;
- (b) Providing job search assistance; and
- (c) Providing labor market statistics or analysis;

Ineligibility under this subdivision shall begin on the first day of the week which the claimant was scheduled to report for the reemployment assessment or reemployment services and shall end on the last day of the week preceding the week during which the claimant does report in person to the employment office for such reemployment assessment or reemployment services;

(7) The claimant is participating in reemployment services, such as job search assistance services, as directed by the deputy if the claimant has been determined to be likely to exhaust regular benefits and to need reemployment services pursuant to a profiling system established by the division, unless the deputy determines that:

- (a) The individual has completed such reemployment services; or
- (b) There is justifiable cause for the claimant's failure to participate in such reemployment services.

2. A claimant shall be ineligible for waiting week credit or benefits for any week for which the deputy finds he or she is or has been suspended by his or her most recent employer for misconduct connected with his or her work. Suspensions of four weeks or more shall be treated as discharges.

3. (1) Benefits based on "service in employment", defined in subsections 7 and 8 of section 288.034, shall be payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the basis of other service subject to this law; except that:

(a) With respect to service performed in an instructional, research, or principal administrative capacity for an educational institution, benefits shall not be paid based on such services for any week of unemployment commencing during the period between two successive academic years or terms, or during a similar period between two regular but not successive terms,

or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if such individual performs such services in the first of such academic years (or terms) and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms;

(b) With respect to services performed in any capacity (other than instructional, research, or principal administrative capacity) for an educational institution, benefits shall not be paid on the basis of such services to any individual for any week which commences during a period between two successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a contract or a reasonable assurance that such individual will perform such services in the second of such academic years or terms;

(c) With respect to services described in paragraphs (a) and (b) of this subdivision, benefits shall not be paid on the basis of such services to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performed such services in the period immediately before such vacation period or holiday recess, and there is reasonable assurance that such individual will perform such services immediately following such vacation period or holiday recess;

(d) With respect to services described in paragraphs (a) and (b) of this subdivision, benefits payable on the basis of services in any such capacity shall be denied as specified in paragraphs (a), (b), and (c) of this subdivision to any individual who performed such services at an educational institution while in the employ of an educational service agency, and for this purpose the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such services to one or more educational institutions.

(2) If compensation is denied for any week pursuant to paragraph (b) or (d) of subdivision (1) of this subsection to any individual performing services at an educational institution in any capacity (other than instructional, research or principal administrative capacity), and such individual was not offered an opportunity to perform such services for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of the compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of paragraph (b) or (d) of subdivision (1) of this subsection.

4. (1) A claimant shall be ineligible for waiting week credit, benefits or shared work benefits for any week for which he or she is receiving or has received remuneration exceeding his or her weekly benefit amount or shared work benefit amount in the form of:

(a) Compensation for temporary partial disability pursuant to the workers' compensation law of any state or pursuant to a similar law of the United States;

(b) A governmental or other pension, retirement or retired pay, annuity, or other similar periodic payment which is based on the previous work of such claimant to the extent that such payment is provided from funds provided by a base period or chargeable employer pursuant to a plan maintained or contributed to by such employer; but, except for such payments made pursuant to the Social Security Act or the Railroad Retirement Act of 1974 (or the corresponding provisions of prior law), the provisions of this paragraph shall not apply if the services performed for such employer by the claimant after the beginning of the base period (or remuneration for such services) do not affect eligibility for or increase the amount of such pension, retirement or retired pay, annuity or similar payment.

(2) If the remuneration referred to in this subsection is less than the benefits which would otherwise be due, the claimant shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration, and, if such benefit is not a multiple of one dollar, such amount shall be lowered to the next multiple of one dollar.

(3) Notwithstanding the provisions of subdivisions (1) and (2) of this subsection, if a claimant has contributed in any way to the Social Security Act or the Railroad Retirement Act of

1974, or the corresponding provisions of prior law, no part of the payments received pursuant to such federal law shall be deductible from the amount of benefits received pursuant to this chapter.

5. A claimant shall be ineligible for waiting week credit or benefits for any week for which or a part of which he or she has received or is seeking unemployment benefits pursuant to an unemployment insurance law of another state or the United States; provided, that if it be finally determined that the claimant is not entitled to such unemployment benefits, such ineligibility shall not apply.

6. (1) A claimant shall be ineligible for waiting week credit or benefits for any week for which the deputy finds that such claimant's total or partial unemployment is due to a stoppage of work which exists because of a labor dispute in the factory, establishment or other premises in which such claimant is or was last employed. In the event the claimant secures other employment from which he or she is separated during the existence of the labor dispute, the claimant must have obtained bona fide employment as a permanent employee for at least the major part of each of two weeks in such subsequent employment to terminate his or her ineligibility. If, in any case, separate branches of work which are commonly conducted as separate businesses at separate premises are conducted in separate departments of the same premises, each such department shall for the purposes of this subsection be deemed to be a separate factory, establishment or other premises. This subsection shall not apply if it is shown to the satisfaction of the deputy that:

(a) The claimant is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and

(b) The claimant does not belong to a grade or class of workers of which, immediately preceding the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute.

(2) "Stoppage of work" as used in this subsection means a substantial diminution of the activities, production or services at the establishment, plant, factory or premises of the employing unit. This definition shall not apply to a strike where the employees in the bargaining unit who initiated the strike are participating in the strike. Such employees shall not be eligible for waiting week credit or benefits during the period when the strike is in effect, regardless of diminution, unless the employer has been found guilty of an unfair labor practice by the National Labor Relations Board or a federal court of law for an act or actions preceding or during the strike.

7. On or after January 1, 1978, benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons (or similar periods) if such individual performed such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods).

8. Benefits shall not be payable on the basis of services performed by an alien, unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time such services were performed (including an alien who was lawfully present in the United States as a result of the application of the provisions of Section 212(d)(5) of the Immigration and Nationality Act).

(1) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(2) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of such individual's alien status shall be made except upon a preponderance of the evidence.

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9. A claimant shall be ineligible for waiting week credit or benefits for any week such claimant has an outstanding penalty which was assessed based upon an overpayment of benefits, as provided for in subsection 9 of section 288.380.

10. The directors of the division of employment security and the division of workforce development shall submit to the governor, the speaker of the house of representatives, and the president pro tem of the senate no later than October 15, 2006, a report outlining their recommendations for how to improve work search verification and claimant reemployment activities. The recommendations shall include, but not limited to how to best utilize "greathires.org", and how to reduce the average duration of unemployment insurance claims. Each calendar year thereafter, the directors shall submit a report containing their recommendations on these issues by December thirty-first of each year.

**288.060. BENEFITS, HOW PAID — WAGE CREDITS — BENEFITS DUE DECEDENT — BENEFIT WARRANTS CANCELLED, WHEN — ELECTRONIC FUNDS TRANSFER SYSTEM, ALLOWED — REMOTE CLAIMS FILING PROCEDURES REQUIRED, CONTENTS, DUTIES.** — 1. All benefits shall be paid through employment offices in accordance with such regulations as the division may prescribe.

2. Each eligible insured worker who is totally unemployed in any week shall be paid for such week a sum equal to his or her weekly benefit amount.

3. Each eligible insured worker who is partially unemployed in any week shall be paid for such week a partial benefit. Such partial benefit shall be an amount equal to the difference between his or her weekly benefit amount and that part of his or her wages for such week in excess of twenty dollars, and, if such partial benefit amount is not a multiple of one dollar, such amount shall be reduced to the nearest lower full dollar amount. For calendar year 2007 and each year thereafter, such partial benefit shall be an amount equal to the difference between his or her weekly benefit amount and that part of his or her wages for such week in excess of twenty dollars or twenty percent of his or her weekly benefit amount, whichever is greater, and, if such partial benefit amount is not a multiple of one dollar, such amount shall be reduced to the nearest lower full dollar amount. Termination pay, severance pay or pay received by an eligible insured worker who is a member of the organized militia for training or duty authorized by Section 502(a)(1) of Title 32, United States Code, shall not be considered wages for the purpose of this subsection.

4. The division shall compute the wage credits for each individual by crediting him or her with the wages paid to him or her for insured work during each quarter of his or her base period or twenty-six times his or her weekly benefit amount, whichever is the lesser. In addition, if a claimant receives wages in the form of termination pay or severance pay and such payment appears in a base period established by the filing of an initial claim, the claimant may, at his or her option, choose to have such payment included in the calendar quarter in which it was paid or choose to have it prorated equally among the quarters comprising the base period of the claim. The maximum total amount of benefits payable to any insured worker during any benefit year shall not exceed [twenty-six] **twenty** times his or her weekly benefit amount, or thirty-three and one-third percent of his or her wage credits, whichever is the lesser. For the purpose of this section, wages shall be counted as wage credits for any benefit year, only if such benefit year begins subsequent to the date on which the employing unit by whom such wages were paid has become an employer. The wage credits of an individual earned during the period commencing with the end of a prior base period and ending on the date on which he or she filed an allowed initial claim shall not be available for benefit purposes in a subsequent benefit year unless, in addition thereto, such individual has subsequently earned either wages for insured work in an amount equal to at least five times his or her current weekly benefit amount or wages in an amount equal to at least ten times his or her current weekly benefit amount.

5. In the event that benefits are due a deceased person and no petition has been filed for the probate of the will or for the administration of the estate of such person within thirty days after his

or her death, the division may by regulation provide for the payment of such benefits to such person or persons as the division finds entitled thereto and every such payment shall be a valid payment to the same extent as if made to the legal representatives of the deceased.

6. The division is authorized to cancel any benefit warrant remaining outstanding and unpaid one year after the date of its issuance and there shall be no liability for the payment of any such benefit warrant thereafter.

7. The division may establish an electronic funds transfer system to transfer directly to claimants' accounts in financial institutions benefits payable to them pursuant to this chapter. To receive benefits by electronic funds transfer, a claimant shall satisfactorily complete a direct deposit application form authorizing the division to deposit benefit payments into a designated checking or savings account. Any electronic funds transfer system created pursuant to this subsection shall be administered in accordance with regulations prescribed by the division.

8. The division may issue a benefit warrant covering more than one week of benefits.

9. Prior to January 1, 2005, the division shall institute procedures including, but not limited to, name, date of birth, and Social Security verification matches for remote claims filing via the use of telephone or the Internet in accordance with such regulations as the division shall prescribe. At a minimum, the division shall verify the Social Security number and date of birth when an individual claimant initially files for unemployment insurance benefits. If verification information does not match what is on file in division databases to what the individual is stating, the division shall require the claimant to submit a division-approved form requesting an affidavit of eligibility prior to the payment of additional future benefits. The division of employment security shall cross-check unemployment compensation applicants and recipients with Social Security Administration data maintained by the federal government at least weekly. The division of employment security shall cross-check at least monthly unemployment compensation applicants and recipients with department of revenue drivers license databases.

**288.062. "ON" AND "OFF" INDICATORS, STATE AND NATIONAL, HOW DETERMINED — EXTENDED BENEFITS, DEFINED — AMOUNT AND HOW COMPUTED. — 1.** As used in this section, unless the context clearly requires otherwise:

(1) "Extended benefit period" means a period which begins with the third week after a week for which there is a state "on" indicator, and ends with either of the following weeks, whichever occurs later:

(a) The third week after the first week for which there is a state "off" indicator; or

(b) The thirteenth consecutive week of such period; provided, that no extended benefit period may begin by reason of a state "on" indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this state;

(2) There is a "state 'on' indicator" for this state for a week if the director determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) under this law:

(a) **a.** Equaled or exceeded one hundred twenty percent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years; and

~~[(b)]~~ **b.** Equaled or exceeded four percent for weeks beginning prior to or on September 25, 1982, or five percent for weeks beginning after September 25, 1982; except that, if the rate of insured unemployment as contemplated in this subdivision equals or exceeds five percent for weeks beginning prior to or on September 25, 1982, or six percent for weeks beginning after September 25, 1982, the determination of an "on" indicator shall be made under this subdivision as if this subdivision did not contain the provisions of **subparagraph a. of** paragraph (a) of this subdivision; or

~~[(c)]~~ **(b)** With respect to weeks of unemployment beginning on or after February 1, 2009, and ending on or before the week ending four weeks prior to the last week of unemployment for which



one hundred percent federal sharing is available under the provisions of Public Law 111-5, Section 2005(a) or [March 3, 2011] **August 28, 2013**, whichever should occur first:

a. The average rate of total unemployment in the state (seasonally adjusted), as determined by the United States Secretary of Labor, for the period consisting of the most recent three months for which data for all states are published before the close of such week equals or exceeds six and one-half percent; and

b. The average rate of total unemployment in the state (seasonally adjusted), as determined by the United States Secretary of Labor, for the three-month period referred to in subparagraph a. of this paragraph, equals or exceeds one hundred and ten percent of such average for either or both of the corresponding three-month periods ending in the two preceding calendar years; **or**

**c. Effective with respect to compensation for weeks of unemployment beginning after the date of enactment of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Public Law 111-312, and ending on or before the last day allowable by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, the average rate of total unemployment in the state (seasonally adjusted), as determined by the United States Secretary of Labor, for the three-month period referred to in subparagraph a. of this paragraph, equals or exceeds one hundred and ten percent of such average for any or all of the corresponding three-month periods ending in the three preceding calendar years;**

(3) There is a "state 'off' indicator" for this state for a week if the director determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) under this law:

(a) Was less than one hundred twenty percent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years; or

(b) Was less than four percent (five percent for weeks beginning after September 25, 1982); except, there shall not be an "off" indicator for any week in which an "on" indicator as contemplated in **subparagraph b. of paragraph [(b)] (a)** of subdivision (2) of this subsection exists;

(4) "Rate of insured unemployment", for the purposes of subdivisions (2) and (3) of this subsection, means the percentage derived by dividing:

(a) The average weekly number of individuals filing claims for regular compensation in this state for weeks of unemployment with respect to the most recent thirteen-consecutive-week period, as determined by the director on the basis of his or her reports to the United States Secretary of Labor, by

(b) The average monthly employment covered under this law for the first four of the most recent six completed calendar quarters ending before the end of such thirteen-week period;

(5) "Regular benefits" means benefits payable to an individual under this law or under any other state law (including benefits payable to federal civilian employees and ex-servicemen pursuant to 5 U.S.C. Chapter 85) other than extended benefits;

(6) "Extended benefits" means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. Chapter 85) payable to an individual under the provisions of this section for weeks of unemployment in his or her eligibility period;

(7) "Eligibility period" of an individual means the period consisting of the weeks in his or her benefit year which begin in an extended benefit period and, if his or her benefit year ends within such extended benefit period, any weeks thereafter which begin in such period;

(8) "Exhaustee" means an individual who, with respect to any week of unemployment in his or her eligibility period:

(a) Has received, prior to such week, all of the regular benefits that were available to him or her under this law or any other state law (including dependents' allowances and benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. Chapter 85) in his or her current

benefit year that includes such week; provided, that, for the purposes of this paragraph, an individual shall be deemed to have received all of the regular benefits that were available to him or her although as a result of a pending appeal with respect to wages or employment, or both, that were not considered in the original monetary determination in his or her benefit year, he may subsequently be determined to be entitled to added regular benefits; or

(b) Has received, prior to such week, all the regular compensation available to him or her in his or her current benefit year that includes such week under the unemployment compensation law of the state in which he or she files a claim for extended compensation or the unemployment compensation law of any other state after a cancellation of some or all of his or her wage credits or the partial or total reduction of his or her right to regular compensation; or

(c) His or her benefit year having expired prior to such week, he or she has insufficient wages or employment, or both, on the basis of which he or she could establish in any state a new benefit year that would include such week, or having established a new benefit year that includes such week, he or she is precluded from receiving regular compensation by reason of a state law provision which meets the requirement of section 3304(a)(7) of the Internal Revenue Code of 1954; and

(d) a. Has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965 and such other federal laws as are specified in regulations issued by the United States Secretary of Labor; and

b. Has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada; but if he or she is seeking such benefits and the appropriate agency finally determines that he or she is not entitled to benefits under such law he or she is considered an exhaustee;

(9) "State law" means the unemployment insurance law of any state, approved by the United States Secretary of Labor under Section 3304 of the Internal Revenue Code of 1954.

2. Except when the result would be inconsistent with the other provisions of this section, as provided in the regulations of the director, the provisions of this law which apply to claims for, or the payment of, regular benefits shall apply to claims for, and the payment of, extended benefits.

3. An individual shall be eligible to receive extended benefits with respect to any week of unemployment in his or her eligibility period only if the deputy finds that with respect to such week:

(1) He or she is an exhaustee as defined in subdivision (8) of subsection 1 of this section;

(2) He or she has satisfied the requirements of this law for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits; except that, in the case of a claim for benefits filed in another state, which is acting as an agent state under the Interstate Benefits Payment Plan as provided by regulation, which claim is based on benefit credits accumulated in this state, eligibility for extended benefits shall be limited to the first two compensable weeks unless there is an extended benefit period in effect in both this state and the agent state in which the claim was filed;

(3) The other provisions of this law notwithstanding, as to new extended benefit claims filed after September 25, 1982, an individual shall be eligible to receive extended benefits with respect to any week of unemployment in his or her eligibility period only if the deputy finds that the total wages in the base period of his or her benefit year equal at least one and one-half times the wages paid during that quarter of his or her base period in which his or her wages were highest.

4. A claimant shall not be eligible for extended benefits following any disqualification imposed under subsection 1 or 2 of section 288.050, unless subsequent to the effective date of the disqualification, the claimant has been employed during at least four weeks and has earned wages equal to at least four times his or her weekly benefit amount.

5. For the purposes of determining eligibility for extended benefits, the term "suitable work" means any work which is within such individual's capabilities except that, if the individual furnishes satisfactory evidence that the prospects for obtaining work in his or her customary occupation within a reasonably short period are good, the determination of what constitutes suitable work shall be made in accordance with the provisions of subdivision (3) of subsection 1 of section 288.050. If a deputy finds that a person who is claiming extended benefits has refused to accept or to apply for suitable work, as defined in this subsection, or has failed to actively engage in seeking work subsequent to the effective date of his or her claim for extended benefits, that person shall be ineligible for extended benefits for the period beginning with the first day of the week in which such refusal or failure occurred. That ineligibility shall remain in effect until the person has been employed for at least four weeks after the week in which the refusal or failure occurred and has earned wages equal to at least four times his or her weekly benefit amount.

6. Extended benefits shall not be denied under subsection 5 of this section to any individual for any week by reason of a failure to accept an offer of or apply for suitable work if:

(1) The gross average weekly remuneration for such work does not exceed the individual's weekly benefit amount plus the amount of any supplemental unemployment benefits, as defined in section 501(c)(17)(d) of the Internal Revenue Code, payable to such individual for such week; or

(2) The position was not offered to such individual in writing or was not listed with the state employment service; or

(3) If the remuneration for the work offered is less than the minimum wage provided by Section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, without regard to any exemption or any applicable state or local minimum wage, whichever is the greater.

7. For the purposes of this section, an individual shall be considered as actively engaged in seeking work during any week with respect to which the individual has engaged in a systematic and sustained effort to obtain work as indicated by tangible evidence which the individual provides to the division.

8. Extended benefits shall not be denied for failure to apply for or to accept suitable work if such failure would not result in a denial of benefits under subdivision (3) of subsection 1 of section 288.050 to the extent that the provisions of subdivision (3) of subsection 1 of section 288.050 are not inconsistent with the provisions of subsections 5 and 6 of this section.

9. The division shall refer any claimant entitled to extended benefits under this law to any suitable work which meets the criteria established in subsections 5 and 6 of this section.

10. Notwithstanding other provisions of this chapter to the contrary, as to claims of extended benefits, subsections 4 to 9 of this section shall not apply to weeks of unemployment beginning after March 6, 1993, and before January 1, 1995. Entitlement to extended benefits for weeks beginning after March 6, 1993, and before January 1, 1995, shall be determined in accordance with provisions of this chapter not excluded by this subsection.

11. "Weekly extended benefit amount." The weekly extended benefit amount payable to an individual for a week of total unemployment in his or her eligibility period shall be an amount equal to the weekly benefit amount payable to him or her during his or her applicable benefit year, reduced by a percentage equal to the percentage of the reduction in federal payments to states under Section 204 of the Federal State Extended Unemployment Compensation Act of 1970, in accord with any order issued under any law of the United States. Such weekly benefit amount, if not a multiple of one dollar, shall be reduced to the nearest lower full dollar amount.

12. (1) "Total extended benefit amount." The total extended benefit amount payable to any eligible individual with respect to his or her applicable benefit year shall be the lesser of the following amounts:

(a) Fifty percent of the total amount of regular benefits which were payable to him or her under this law in his or her applicable benefit year;

(b) Thirteen times his or her weekly benefit amount which was payable to him or her under this law for a week of total unemployment in the applicable benefit year.

(2) Notwithstanding subdivision (1) of this subsection, during any fiscal year in which federal payments to states under Section 204 of the Federal State Extended Unemployment Compensation Act of 1970 are reduced under any order issued under any law of the United States, the total extended benefit amount payable to an individual with respect to his or her applicable benefit year shall be reduced by an amount equal to the aggregate of the reductions under subsection 11 of this section in the weekly amounts paid to the individual.

(3) Notwithstanding the other provisions of this subsection, if the benefit year of any individual ends within an extended benefit period, the remaining balance of extended benefits that such individual would, but for this subdivision, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced, but not below zero, by the product of the number of weeks for which the individual received trade readjustment allowances under the Trade Act of 1974, as amended, within that benefit year, multiplied by the individual's weekly benefit amount for extended benefits.

(4) (a) Effective with respect to weeks beginning in a high unemployment period, subdivision (1) of this subsection shall be applied by substituting:

- a. Eighty percent for fifty percent in paragraph (a) of subdivision (1) of this subsection; and
- b. Twenty times for thirteen times in paragraph (b) of subdivision (1) of this subsection.

(b) For purposes of paragraph (a) of this subdivision, the term "high unemployment period" means any period during which an extended benefit period would be in effect if subparagraph a. of paragraph [(c)] **(b)** of subdivision (2) of subsection 1 of this section were applied by substituting eight percent for six and one-half percent.

13. (1) Whenever an extended benefit period is to become effective in this state as a result of a state "on" indicator, or an extended benefit period is to be terminated in this state as a result of a state "off" indicator, the director shall make an appropriate public announcement.

(2) Computations required by the provisions of subdivision (4) of subsection 1 of this section shall be made by the director, in accordance with regulations prescribed by the United States Secretary of Labor.

**SECTION B. EMERGENCY CLAUSE.** — Because immediate action is necessary to help Missourians during economic hardship, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved April 13, 2011

HB 174 [HCS HB 174]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Changes the composition of the Coordinating Board for Higher Education, the University of Missouri Board of Curators, and the Missouri State University Board of Governors**

AN ACT to repeal sections 172.030, 173.005, and 174.450, RSMo, and to enact in lieu thereof three new sections relating to higher education governing boards, with an existing penalty provision.

SECTION

- A. Enacting clause.  
172.030. Curators, number of — how appointed.  
173.005. Department of higher education created — agencies, divisions, transferred to department — coordinating board, appointment qualifications, terms, compensation, duties, advisory committee, members.  
174.450. Board of governors to be appointed for certain public institutions of higher education, qualifications, terms.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 172.030, 173.005, and 174.450, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 172.030, 173.005, and 174.450, to read as follows:

**172.030. CURATORS, NUMBER OF — HOW APPOINTED.** — The board of curators of the University of the state of Missouri shall hereafter consist of nine members, who shall be appointed by the governor, by and with the advice and consent of the senate; provided, that [not more than one person] **at least one but no more than two** shall be appointed upon said board from [the same] **each** congressional district, and no person shall be appointed a curator who shall not be a citizen of the United States, and who shall not have been a resident of the state of Missouri two years next prior to his appointment. Not more than five curators shall belong to any one political party. **Notwithstanding any provision of law to the contrary, nothing in this section relating to a change in the composition and configuration of congressional districts in this state shall prohibit a member who is serving a term on August 28, 2011 from completing his or her term.**

**173.005. DEPARTMENT OF HIGHER EDUCATION CREATED — AGENCIES, DIVISIONS, TRANSFERRED TO DEPARTMENT — COORDINATING BOARD, APPOINTMENT QUALIFICATIONS, TERMS, COMPENSATION, DUTIES, ADVISORY COMMITTEE, MEMBERS.** — 1. There is hereby created a "Department of Higher Education", and the division of higher education of the department of education is abolished and all its powers, duties, functions, personnel and property are transferred as provided by the Reorganization Act of 1974, Appendix B, RSMo.

2. The commission on higher education is abolished and all its powers, duties, personnel and property are transferred by type I transfer to the "Coordinating Board for Higher Education", which is hereby created, and the coordinating board shall be the head of the department. The coordinating board shall consist of nine members appointed by the governor with the advice and consent of the senate, and not more than five of its members shall be of the same political party. None of the members shall be engaged professionally as an educator or educational administrator with a public or private institution of higher education at the time appointed or during his term. [The other qualifications, terms and compensation of the coordinating board shall be the same as provided by law for the curators of the University of Missouri.] **Moreover, no person shall be appointed to the coordinating board who shall not be a citizen of the United States, and who shall not have been a resident of the state of Missouri two years next prior to appointment, and at least one but not more than two persons shall be appointed to said board from each congressional district. The term of service of a member of the coordinating board shall be six years and said members, while attending the meetings of the board, shall be reimbursed for their actual expenses. Notwithstanding any provision of law to the contrary, nothing in this section relating to a change in the composition and configuration of congressional districts in this state shall prohibit a member who is serving a term on August 28, 2011 from completing his or her term.** The coordinating board may, in order to carry out the duties prescribed for it in subsections 1, 2, 3, 7, and 8 of this section, employ such professional, clerical and research personnel as may be necessary to assist it in performing those duties, but this staff shall not, in any fiscal year, exceed twenty-five full-time equivalent employees regardless of the source of funding. In addition to all other powers, duties

and functions transferred to it, the coordinating board for higher education shall have the following duties and responsibilities:

(1) The coordinating board for higher education shall have approval of proposed new degree programs to be offered by the state institutions of higher education;

(2) The coordinating board for higher education may promote and encourage the development of cooperative agreements between Missouri public four-year institutions of higher education which do not offer graduate degrees and Missouri public four-year institutions of higher education which do offer graduate degrees for the purpose of offering graduate degree programs on campuses of those public four-year institutions of higher education which do not otherwise offer graduate degrees. Such agreements shall identify the obligations and duties of the parties, including assignment of administrative responsibility. Any diploma awarded for graduate degrees under such a cooperative agreement shall include the names of both institutions inscribed thereon. Any cooperative agreement in place as of August 28, 2003, shall require no further approval from the coordinating board for higher education. Any costs incurred with respect to the administrative provisions of this subdivision may be paid from state funds allocated to the institution assigned the administrative authority for the program. The provisions of this subdivision shall not be construed to invalidate the provisions of subdivision (1) of this subsection;

(3) In consultation with the heads of the institutions of higher education affected and against a background of carefully collected data on enrollment, physical facilities, manpower needs, institutional missions, the coordinating board for higher education shall establish guidelines for appropriation requests by those institutions of higher education; however, other provisions of the Reorganization Act of 1974 notwithstanding, all funds shall be appropriated by the general assembly to the governing board of each public four-year institution of higher education which shall prepare expenditure budgets for the institution;

(4) No new state-supported senior colleges or residence centers shall be established except as provided by law and with approval of the coordinating board for higher education;

(5) The coordinating board for higher education shall establish admission guidelines consistent with institutional missions;

(6) The coordinating board shall establish policies and procedures for institutional decisions relating to the residence status of students;

(7) The coordinating board shall establish guidelines to promote and facilitate the transfer of students between institutions of higher education within the state and shall ensure that as of the 2008-09 academic year, in order to receive increases in state appropriations, all approved public two- and four-year public institutions shall work with the commissioner of higher education to establish agreed-upon competencies for all entry-level collegiate courses in English, mathematics, foreign language, sciences, and social sciences associated with an institution's general education core and that the coordinating board shall establish policies and procedures to ensure such courses are accepted in transfer among public institutions and treated as equivalent to similar courses at the receiving institutions. The department of elementary and secondary education shall align such competencies with the assessments found in section 160.518 and successor assessments;

(8) The coordinating board shall collect the necessary information and develop comparable data for all institutions of higher education in the state. The coordinating board shall use this information to delineate the areas of competence of each of these institutions and for any other purposes deemed appropriate by the coordinating board;

(9) Compliance with requests from the coordinating board for institutional information and the other powers, duties and responsibilities, herein assigned to the coordinating board, shall be a prerequisite to the receipt of any funds which the coordinating board is responsible for administering;

(10) If any institution of higher education in this state, public or private, willfully fails or refuses to follow any lawful guideline, policy or procedure established or prescribed by the coordinating board, or knowingly deviates from any such guideline, or knowingly acts without

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coordinating board approval where such approval is required, or willfully fails to comply with any other lawful order of the coordinating board, the coordinating board may, after a public hearing, withhold or direct to be withheld from that institution any funds the disbursement of which is subject to the control of the coordinating board, or may remove the approval of the institution as an approved institution within the meaning of section 173.1102. If any such public institution willfully disregards board policy, the commissioner of higher education may order such institution to remit a fine in an amount not to exceed one percent of the institution's current fiscal year state operating appropriation to the board. The board shall hold such funds until such time that the institution, as determined by the commissioner of higher education, corrects the violation, at which time the board shall refund such amount to the institution. If the commissioner determines that the institution has not redressed the violation within one year, the fine amount shall be deposited into the general revenue fund, unless the institution appeals such decision to the full coordinating board, which shall have the authority to make a binding and final decision, by means of a majority vote, regarding the matter. However, nothing in this section shall prevent any institution of higher education in this state from presenting additional budget requests or from explaining or further clarifying its budget requests to the governor or the general assembly; and

(11) (a) As used in this subdivision, the term "out-of-state public institution of higher education" shall mean an education institution located outside of Missouri that:

a. Is controlled or administered directly by a public agency or political subdivision or is classified as a public institution by the state;

b. Receives appropriations for operating expenses directly or indirectly from a state other than Missouri;

c. Provides a postsecondary course of instruction at least six months in length leading to or directly creditable toward a degree or certificate;

d. Meets the standards for accreditation by an accrediting body recognized by the United States Department of Education or any successor agency; and

e. Permits faculty members to select textbooks without influence or pressure by any religious or sectarian source.

(b) No later than July 1, 2008, the coordinating board shall promulgate rules regarding:

a. The board's approval process of proposed new degree programs and course offerings by any out-of-state public institution of higher education seeking to offer degree programs or course work within the state of Missouri; and

b. The board's approval process of degree programs and courses offered by any out-of-state public institutions of higher education that, prior to July 1, 2008, were approved by the board to operate a school in compliance with the provisions of sections 173.600 to 173.618. The rules shall ensure that, as of July 1, 2008, all out-of-state public institutions seeking to offer degrees and courses within the state of Missouri are evaluated in a manner similar to Missouri public higher education institutions. Such out-of-state public institutions shall be held to standards no lower than the standards established by the coordinating board for program approval and the policy guidelines of the coordinating board for data collection, cooperation, and resolution of disputes between Missouri institutions of higher education under this section. Any such out-of-state public institutions of higher education wishing to continue operating within this state must be approved by the board under the rules promulgated under this subdivision. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

(c) Nothing in this subdivision or in section 173.616 shall be construed or interpreted so that students attending an out-of-state public institution are considered to be attending a Missouri public institution of higher education for purposes of obtaining student financial assistance.

3. The coordinating board shall meet at least four times annually with an advisory committee who shall be notified in advance of such meetings. The coordinating board shall have exclusive voting privileges. The advisory committee shall consist of thirty-two members, who shall be the president or other chief administrative officer of the University of Missouri; the chancellor of each campus of the University of Missouri; the president of each state-supported four-year college or university, including Harris-Stowe State University, Missouri Southern State University, Missouri Western State University, and Lincoln University; the president of Linn State Technical College; the president or chancellor of each public community college district; and representatives of each of five accredited private institutions selected biennially, under the supervision of the coordinating board, by the presidents of all of the state's privately supported institutions; but always to include at least one representative from one privately supported community college, one privately supported four-year college, and one privately supported university. The conferences shall enable the committee to advise the coordinating board of the views of the institutions on matters within the purview of the coordinating board.

4. The University of Missouri, Lincoln University, and all other state-governed colleges and universities, chapters 172, 174, 175, and others, are transferred by type III transfers to the department of higher education subject to the provisions of subsection 2 of this section.

5. The state historical society, chapter 183, is transferred by type III transfer to the University of Missouri.

6. The state anatomical board, chapter 194, is transferred by type II transfer to the department of higher education.

7. All the powers, duties and functions vested in the division of public schools and state board of education relating to community college state aid and the supervision, formation of districts and all matters otherwise related to the state's relations with community college districts and matters pertaining to community colleges in public school districts, chapters 163, 178, and others, are transferred to the coordinating board for higher education by type I transfer. Provided, however, that all responsibility for administering the federal-state programs of vocational-technical education, except for the 1202a postsecondary educational amendments of 1972 program, shall remain with the department of elementary and secondary education. The department of elementary and secondary education and the coordinating board for higher education shall cooperate in developing the various plans for vocational-technical education; however, the ultimate responsibility will remain with the state board of education.

8. All the powers, duties, functions, and properties of the state poultry experiment station, chapter 262, are transferred by type I transfer to the University of Missouri, and the state poultry association and state poultry board are abolished. In the event the University of Missouri shall cease to use the real estate of the poultry experiment station for the purposes of research or shall declare the same surplus, all real estate shall revert to the governor of the state of Missouri and shall not be disposed of without legislative approval.

**174.450. BOARD OF GOVERNORS TO BE APPOINTED FOR CERTAIN PUBLIC INSTITUTIONS OF HIGHER EDUCATION, QUALIFICATIONS, TERMS.** — 1. Except as provided in subsection 2 and subsection 6 of this section, the governing board of Central Missouri State University, Missouri State University, Missouri Southern State University, Missouri Western State University, and of each other public institution of higher education which, through the procedures established in subdivision (7) or (8) of section 173.030, is charged with a statewide mission shall be a board of governors consisting of eight members, composed of seven voting members and one nonvoting member as provided in sections 174.453 and 174.455, who shall be appointed by the governor of Missouri, by and with the advice and consent of the senate. No person shall be appointed a voting



member who is not a citizen of the United States and who has not been a resident of the state of Missouri for at least two years immediately prior to such appointment. Not more than four voting members shall belong to any one political party. The appointed members of the board of regents serving on the date of the statutory mission change shall become members of the board of governors on the effective date of the statutory mission change and serve until the expiration of the terms for which they were appointed. The board of regents of any such institution shall be abolished on the effective date of the statutory mission change, as prescribed in subdivision (7) or (8) of section 173.030.

2. The governing board of Missouri State University, a public institution of higher education charged with a statewide mission in public affairs, shall be a board of governors of ten members, composed of nine voting members and one nonvoting member, who shall be appointed by the governor, by and with the advice and consent of the senate. The nonvoting member shall be a student selected in the same manner as prescribed in section 174.055. [No more than one voting member] **At least one but no more than two voting members** shall be appointed to the board from [the same] **each** congressional district, and every member of the board shall be a citizen of the United States, and a resident of this state for at least two years prior to his or her appointment. No more than five voting members shall belong to any one political party. The term of office of the governors shall be six years. The voting members of the board of governors serving on August 28, 2005, shall serve until the expiration of the terms for which they were appointed. For those voting members appointed after August 28, 2005, the term of office will be established in a manner where no more than three terms shall expire in a given year. The term of office for those appointed hereafter shall end January first in years ending in an odd number. **Notwithstanding any provision of law to the contrary, nothing in this section relating to a change in the composition and configuration of congressional districts in this state shall prohibit a member who is serving a term on August 28, 2011 from completing his or her term.**

3. If a voting member of the board of governors of Missouri State University is found by unanimous vote of the other governors to have moved such governor's residence from the district from which such governor was appointed, then the office of such governor shall be forfeited and considered vacant.

4. Should the total number of Missouri congressional districts be altered, all members of the board of governors of Missouri State University shall be allowed to serve the remainder of the term for which they were appointed.

5. Should the boundaries of any congressional districts be altered in a manner that displaces a member of the board of governors of Missouri State University from the congressional district from which the member was appointed, the member shall be allowed to serve the remainder of the term for which the member was appointed.

6. The governing board of Missouri Southern State University shall be a board of governors consisting of nine members, composed of eight voting members and one nonvoting member as provided in sections 174.453 and 174.455, who shall be appointed by the governor of Missouri, by and with the advice and consent of the senate. No person shall be appointed a voting member who is not a citizen of the United States and who has not been a resident of the state of Missouri for at least two years immediately prior to such appointment. Not more than four voting members shall belong to any one political party.

Approved May 2, 2011

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## HB 182 [HB 182]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Designates the first Friday in March as "Dress in Blue for Colon Cancer Awareness Day"**

AN ACT to amend chapter 9, RSMo, by adding thereto one new section relating to the designation of dress in blue for colon cancer awareness day.

SECTION

- A. Enacting clause.  
9.156. Dress in Blue for Colon Cancer Awareness Day designated for the first Friday in March.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Chapter 9, RSMo, is amended by adding thereto one new section, to be known as section 9.156, to read as follows:

**9.156. DRESS IN BLUE FOR COLON CANCER AWARENESS DAY DESIGNATED FOR THE FIRST FRIDAY IN MARCH.** — **The first Friday in March of each year shall be known and designated as "Dress in Blue for Colon Cancer Awareness Day". It is recommended to the people of the state that the day be appropriately observed by wearing blue and through activities which will increase awareness of colon cancer.**

Approved May 5, 2011

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## HB 183 [HB 183]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Changes the laws regarding the Police Retirement System of Kansas City and the Civilian Employees' Retirement System of the Police Department of Kansas City**

AN ACT to repeal sections 86.900, 86.1030, 86.1100, 86.1110, 86.1120, 86.1140, 86.1150, 86.1230, 86.1240, 86.1250, 86.1310, 86.1420, 86.1480, 86.1490, 86.1500, 86.1510, 86.1540, 86.1560, 86.1600, 86.1610, and 86.1620, RSMo, and to enact in lieu thereof twenty-one new sections relating to police and civilian employees' retirement systems.

SECTION

- A. Enacting clause.  
86.900. Definitions.  
86.1030. Benefits and administrative expenses to be paid by retirement system funds — commencement of base pension — death of a member, effect of.  
86.1100. Creditable service, board to fix and determine by rule.  
86.1110. Military leave of absence, effect of — service credit for military service, when.  
86.1120. Termination of members after five or more years of service, credit towards retirement.  
86.1140. Leave of absence not to act as termination of membership — creditable service permitted, when.  
86.1150. Retirement age — base pension amount.  
86.1230. Supplemental retirement benefits, amount — member to be special consultant, compensation.  
86.1240. Pensions of spouses of deceased members — surviving spouse to be appointed as consultant to board, when.  
86.1250. Pensions of children of deceased members.  
86.1310. Definitions.
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- 86.1420. Benefits and administrative expenses to be paid by system funds — commencement of base pension, when — death of member, effect of.
- 86.1480. Who shall be members.
- 86.1490. Creditable service, determination of — inclusions and exclusions.
- 86.1500. Military service, effect on creditable service — election to purchase creditable service, when — service credit for military service, when.
- 86.1510. Members entitled to prior creditable service, when.
- 86.1540. Normal pension, amount — early retirement option, when — election for optional benefit for spouse — pension after five years of creditable service — felony conviction, effect of.
- 86.1560. Disability retirement pension, amount — definitions — board to determine disability, proof may be required.
- 86.1600. Supplemental retirement benefit, amount, cost-of-living adjustments — special consultant, compensation — cost-of-living adjustments, rulemaking authority — member defined.
- 86.1610. Death of member in service, benefit to be received — death of member after retirement, benefit to be received — surviving spouse benefits.
- 86.1620. Funeral benefits, amount.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 86.900, 86.1030, 86.1100, 86.1110, 86.1120, 86.1140, 86.1150, 86.1230, 86.1240, 86.1250, 86.1310, 86.1420, 86.1480, 86.1490, 86.1500, 86.1510, 86.1540, 86.1560, 86.1600, 86.1610, and 86.1620, RSMo, are repealed and twenty-one new sections enacted in lieu thereof, to be known as sections 86.900, 86.1030, 86.1100, 86.1110, 86.1120, 86.1140, 86.1150, 86.1230, 86.1240, 86.1250, 86.1310, 86.1420, 86.1480, 86.1490, 86.1500, 86.1510, 86.1540, 86.1560, 86.1600, 86.1610, and 86.1620, to read as follows:

**86.900. DEFINITIONS.** — The following words and phrases as used in sections 86.900 to 86.1280 shall have the following meanings unless a different meaning is plainly required by the context:

(1) "Accumulated contributions", the sum of all amounts deducted from the compensation of a member and paid to the retirement board, together with all amounts paid to the retirement board by a member or by a member's beneficiary, for the purchase of prior service credits or any other purpose permitted under sections 86.900 to 86.1280;

(2) "Actuarial cost", the present value of a future payment or series of payments as calculated by applying the actuarial assumptions established according to subsection 8 of section 86.1270;

(3) "Beneficiary", any person entitled, either currently or conditionally, to receive pension or other benefits provided in sections 86.900 to 86.1280;

[(3)] (4) "Board of police commissioners", the board composed of police commissioners authorized by law to employ and manage an organized police force in the cities;

[(4)] (5) "City" or "cities", any city which now has or may hereafter have a population of more than three hundred thousand and less than seven hundred thousand inhabitants, or any city that has made an election under section 86.910 to continue a police retirement system maintained under sections 86.900 to 86.1280;

[(5)] (6) "Compensation", the basic wage or salary paid a member for any period on the basis of the member's rank and position, excluding bonuses, overtime pay, expense allowances, and other extraordinary compensation; except that, notwithstanding such provision, compensation for any year for any member shall not exceed the amount permitted to be taken into account under Section 401(a)(17) of the Internal Revenue Code as applicable to such year;

[(6)] (7) "Consultant", unless otherwise specifically defined, a person retained by the retirement system as a special consultant on the problems of retirement, aging and related matters who, upon request of the retirement board, shall give opinions and be available to give opinions in writing or orally in response to such requests, as may be needed by the board;

[(7)] (8) "Creditable service", service qualifying as a determinant of a member's pension or other benefit under sections 86.900 to 86.1280 by meeting the requirements specified in said sections or section 105.691;

[(8)] (9) "Final compensation", the average annual compensation of a member during the member's service if less than two years, or the twenty-four months of service for which the member received the highest salary whether consecutive or otherwise. In computing the average annual compensation of a member, no compensation for service after the thirtieth full year of membership service shall be included. For any period of time when a member is paid on a frequency other than monthly, the member's salary for such period shall be deemed to be the monthly equivalent of the member's annual rate of compensation for such period;

[(9)] (10) "Fiscal year", for the retirement system, the fiscal year of the cities;

[(10)] (11) "Internal Revenue Code", the United States Internal Revenue Code of 1986, as amended;

[(11)] (12) "Medical board", not less than one nor more than three physicians appointed by the retirement board to arrange for and conduct medical examinations as directed by the retirement board;

[(12)] (13) "Member", a member of the police retirement system as described in section 86.1090;

[(13)] (14) "Pension", annual payments for life, payable monthly, [beginning with the date of retirement or other applicable commencement date and ending with death] **at the times described in section 86.1030;**

[(14)] (15) "Pension fund", the fund resulting from contributions made thereto by the cities affected by sections 86.900 to 86.1280 and by the members of the police retirement system;

[(15)] (16) "Police officer", an officer or member of the police department of the cities employed for compensation by the boards of police commissioners of the cities for police duty who holds a rank or position for which an annual salary range is provided in section 84.480 or 84.510; in case of dispute as to whether any person is a police officer qualified for membership in the retirement system, the decision of the board of police commissioners shall be final;

[(16)] (17) "Retirement board" or "board", the board provided in section 86.920 to administer the retirement system;

[(17)] (18) "Retirement system", the police retirement system of the cities as defined in section 86.910;

[(18)] (19) "Surviving spouse", when determining whether a person is entitled to benefits under sections 86.900 to 86.1280 by reason of surviving a member, shall include only:

(a) A person who was married to a member at the time of the member's death in the line of duty or from an occupational disease arising out of and in the course of the member's employment and who had not, after the member's death and prior to August 28, 2000, remarried;

(b) With respect to a member who retired or died prior to August 28, 1997, a spouse who survives such member, whose marriage to such member occurred at least two years before the member's retirement or at least two years before the member's death while in service, and who had not remarried anyone other than the member prior to August 28, 2000;

(c) With respect to a member who retired or died while in service after August 28, 1997, and before August 28, 2000, a spouse who survives such member, was married to such member at the time of such member's retirement or of such member's death while in service, and had not, after the member's death and prior to August 28, 2000, remarried; and

(d) With respect to a member who retires or dies in service after August 28, 2000, a spouse who survives a member and was married to such member at the time of such member's retirement or death while in service.

**86.1030. BENEFITS AND ADMINISTRATIVE EXPENSES TO BE PAID BY RETIREMENT SYSTEM FUNDS — COMMENCEMENT OF BASE PENSION — DEATH OF A MEMBER, EFFECT OF.**  
— 1. All benefits and all necessary administrative expenses of the retirement system shall be paid from the funds of the retirement system.

2. The base pension of a member who, after August 28, 2011, retires from or otherwise terminates active service with entitlement to a base pension under sections 86.900 to 86.1280 shall commence as of the first day of the month next following such retirement or termination with no proration of such pension for the month in which such retirement or termination occurs. The supplemental retirement benefits of a member who, after August 28, 2011, retires from or otherwise terminates active service with entitlement to a supplemental retirement benefit provided in subsection 1 of section 86.1230 shall commence as of the first day of the month next following such retirement or termination with no proration of such supplemental retirement benefit for the month in which such retirement or termination occurs.

3. Upon the death of a member who is receiving a base pension under sections 86.900 to 86.1280 leaving a surviving spouse, as defined in section 86.900, entitled to benefits, payment of the member's base pension including all cost-of-living adjustments thereto, prorated for that portion of the month of such death in which such member was living, shall be made to such surviving spouse, and the benefit for which such spouse is entitled under section 86.1240 shall be prorated and paid to such spouse for the remainder of such month.

4. Upon the death of a member who is receiving a base pension under sections 86.900 to 86.1280 leaving no surviving spouse, as defined in section 86.900, entitled to benefits, payment of the member's base pension including all cost-of-living adjustments thereto, prorated for that portion of the month of such death in which such member was living, shall be made in equal shares to or for the benefit of the children, if any, of such member as are entitled to share in spousal benefits as described in subsection 2 of section 86.1250. If no such children shall survive such member, such prorated benefit for the month of such member's death shall be paid to the beneficiary named by such member in a writing filed with the retirement system prior to the member's death for the purpose of receiving such benefit. If no beneficiary is named, then no payment shall be made of such prorated benefit for the month of such member's death.

5. Upon the death of a surviving spouse who is receiving a base pension under section 86.1240, payment of such spouse's base pension including all cost-of-living adjustments thereto, prorated for that portion of the month of such death in which such spouse was living, shall be made in equal shares to or for the benefit of the children, if any, of the member of whom such spouse is the surviving spouse as are entitled to share in spousal benefits described in subsection 2 of section 86.1250. If no such children shall survive such spouse, such prorated benefit for the month of such spouse's death shall be paid to the beneficiary named by such surviving spouse in a writing filed with the retirement system prior to such spouse's death for the purpose of receiving such benefit. If no beneficiary is named, then no payment shall be made of such prorated benefit for the month of such spouse's death.

6. Upon the death of a member who is receiving a supplemental benefit under section 86.1230 and who leaves a surviving spouse, as defined in section 86.900, entitled to benefits, the entire supplemental benefit for the month of such death shall be paid to such surviving spouse without proration, and the surviving spouse shall receive no additional supplemental benefit for such month.

7. Upon the death of a member who is receiving a supplemental benefit under section 86.1230 and who leaves no surviving spouse, as defined in section 86.900, entitled to benefits, or upon the death of a surviving spouse who is receiving a supplemental benefit under section 86.1230, such supplemental benefit shall terminate upon such death. No benefit shall be payable for any period after the most recent monthly payment of such benefit prior to such death.

8. Upon the death of a member in service who leaves a surviving spouse, as defined in section 86.900, entitled to benefits, the base pension of such surviving spouse shall commence as of the first day of the month next following such death with no proration of such pension for the month in which such death occurs.

9. Upon the death of a member in service who leaves no surviving spouse, as defined in section 86.900, entitled to benefits, any benefit payable to surviving children of such member under subsection 2 of section 86.1250 shall commence as of the first day of the month next following such death with no proration of such benefit for the month in which such death occurs. If there are no such surviving children entitled to such benefit, then such member's accumulated contributions shall be paid to the beneficiary named by such member in a writing filed with the retirement system prior to the member's death for the purpose of receiving such benefit, or if no beneficiary is named, then to such member's estate.

10. Upon the death of a member in service or after retirement, any benefit payable to the surviving children of such member under subsection 1 of section 86.1250 shall commence as of the first day of the month next following such death with no proration of such benefit for the month in which such death occurs.

11. All payments of any benefit shall be paid on the last business day of each month for that month. For any benefit under sections 86.900 to 86.1280, the retirement system shall withhold payment of such benefit until all requisite documentation has been filed with the retirement system evidencing the entitlement of payee to such payment.

12. If no benefits are otherwise payable to a surviving spouse or child of a deceased member or otherwise as provided in this section, the member's accumulated contributions, to any extent not fully paid to such member prior to the member's death or to the surviving spouse or child of such member or otherwise as provided in this section, shall be paid in one lump sum to the member's beneficiary named by such member in a writing filed with the retirement system prior to the member's death for the purpose of receiving such benefit, or if no beneficiary is named, then to such member's estate. Such payment shall constitute full and final payment of any and all claims for benefits under the retirement system.

**86.1100. CREDITABLE SERVICE, BOARD TO FIX AND DETERMINE BY RULE.** — 1. The retirement board shall fix and determine by proper rules and regulations how much service in any year is equivalent to one year of service. In no case shall more than one year of service be creditable for all service rendered in one calendar year. The retirement board shall not allow credit as service for any period [of more than thirty consecutive days] during which the member was absent without compensation, except as provided in [subsection 3 of section] **sections 86.1110 and 86.1140.**

2. **Except as provided in subsection 3 of section 86.1110,** creditable service at retirement on which the retirement allowance of a member is based consists of the membership service rendered by such member since such member last became a member.

3. Creditable service also includes any prior service credit to which a member may be entitled by virtue of an authorized purchase of such credit or as otherwise provided in sections 86.900 to 86.1280.

4. Creditable service shall not include any time a member was suspended from service without compensation. No contribution is required from either the member under section 86.1010 or from the city under section 86.1000 for such time.

5. Any member who has completed thirty years of creditable service may continue in service by permission of the board of police commissioners. Contributions shall not be required of, and no service shall be credited to, any member for more than thirty years of service.

**86.1110. MILITARY LEAVE OF ABSENCE, EFFECT OF — SERVICE CREDIT FOR MILITARY SERVICE, WHEN.** — 1. Whenever a member is given a leave of absence for military service and returns to employment after discharge from the service, such member shall be entitled to creditable service for the years of employment prior to the leave of absence.

2. Except as provided in subsection 3 of this section, a member who served on active duty in the armed forces of the United States and who became a member, or returned to membership, after discharge under honorable conditions, may elect prior to retirement to purchase creditable service equivalent to such service in the armed forces, not to exceed two years, provided the member is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan for the service to be purchased, other than a United States military service retirement system or United States Social Security benefits attributable to such military service, and an affidavit so stating is filed by the member with the retirement system. A member electing to make such purchase shall pay to the retirement system an amount equal to the actuarial [value] **cost** of the additional benefits attributable to the additional service credit to be purchased, as of the date the member elects to make such purchase. [The retirement system shall determine such value using accepted actuarial methods and the same assumptions with respect to interest rates, mortality, future salary increases, and all related factors used in performing the most recent regular actuarial valuation of the retirement system.] Payment in full of the amount due from a member electing to purchase creditable service under this subsection shall be made over a period not to exceed five years, measured from the date of election, or prior to the commencement date for payment of benefits to the member from the retirement system, whichever is earlier, including interest on unpaid balances compounded annually at the interest rate assumed from time to time for actuarial valuations of the retirement system. If payment in full including interest is not made within the prescribed period, any partial payments made by the member shall be refunded, and no creditable service attributable to such election, or as a result of any such partial payments, shall be allowed; provided that if a benefit commencement date occurs because of the death or disability of a member who has made an election under this subsection and if the member is current in payments under an approved installment plan at the time of the death or disability, such election shall be valid if the member, the surviving spouse, or other person entitled to benefit payments pays the entire balance of the remaining amount due, including interest to the date of such payment, within sixty days after the member's death or disability. The time of a disability shall be deemed to be the time when such member is retired by the board of police commissioners for reason of disability as provided in sections 86.900 to 86.1280.

3. Notwithstanding any other provision of sections 86.900 to 86.1280, a member who is on leave of absence for military service during any portion of which leave the United States is in a state of declared war, or a compulsory draft is in effect for any of the military branches of the United States, or any units of the military reserves of the United States, including the National Guard, are mobilized for combat military operations, and who becomes entitled to reemployment rights and other employment benefits under Title 38, Chapter 43 of the U.S. Code, relating to employment and reemployment rights of members of the uniformed services by meeting the requirements for such rights and benefits under Section 4312 of said chapter, or the corresponding provisions of any subsequent applicable [U.S.] **federal** statute, shall be entitled to service credit for the time spent in such military service for all purposes of sections 86.900 to 86.1280 and such member shall not be required to pay any member contributions for such time. If it becomes necessary for the years of such service to be included in the calculation of such member's compensation for any purpose, such member shall be deemed to have received the same compensation throughout such period of service as the member's base annual salary immediately prior to the commencement of such leave of absence.

**86.1120. TERMINATION OF MEMBERS AFTER FIVE OR MORE YEARS OF SERVICE, CREDIT TOWARDS RETIREMENT.** — Members who terminate membership with five years or more of

creditable service and later return to membership may be given credit toward retirement for prior creditable service, subject to the condition that such member deposit in the pension fund a sum equal to the [accumulated contributions which had been paid to such member upon the prior termination. Such repayment of withdrawn contributions shall be accompanied by an additional payment of interest equal to the amount of the actual net yield earned or incurred by the pension fund, including both net income after expenses and net appreciation or depreciation in values of the fund, whether realized or unrealized, during the period of time from the date upon which such contributions had been withdrawn to the date of repayment thereof, determined in accordance with such rules for valuation and accounting as may be adopted by the retirement board for such purposes] **member's portion of the actuarial cost to restore such service. The member's portion of the actuarial cost is determined on the ratio of the member's contribution rate to the total of the member and employer contribution rates at the time the member elects to purchase the creditable service.**

**86.1140. LEAVE OF ABSENCE NOT TO ACT AS TERMINATION OF MEMBERSHIP — CREDITABLE SERVICE PERMITTED, WHEN. —** 1. Should any member be granted leave of absence by the board of police commissioners, such member shall not, because of such absence, cease to be a member.

2. If a member is on leave of absence by authority of the board of police commissioners for thirty consecutive days or less, **and returns from such leave prior to August 28, 2011**, such member shall receive creditable service for such time.

3. Except as provided in subsection 3 of section 86.1110, if a member is on leave of absence [for more than thirty consecutive days] without compensation, such member shall not receive service credits for such time unless such member shall[, within one year after returning from such absence, pay into the retirement system an amount equal to the member's contribution percentage at the time such absence began times an assumed salary figure for the period of such absence, computed by assuming that such member received a salary during such absence at the rate of the base annual salary the member was receiving immediately prior to such absence] **return to active service and purchase such creditable service at the actuarial cost. The actuarial cost shall be determined at the time the member makes such purchase.**

**86.1150. RETIREMENT AGE — BASE PENSION AMOUNT. —** 1. Any member may retire when such member has completed twenty-five or more years of creditable service and, except as otherwise provided in section 86.1100, shall retire when such member has completed thirty years of creditable service. Upon such retirement such member shall receive a base pension equal to:

(1) For a member retiring prior to August 28, 2000, two percent of such member's final compensation, as defined in section 86.900, multiplied by the number of years of such member's total creditable service; or

(2) For a member retiring on or after August 28, 2000, two and one-half percent of such member's final compensation, as defined in section 86.900, multiplied by the number of years of such member's total creditable service. Such pension shall not exceed seventy-five percent of the member's final compensation.

2. Every member not having thirty years of service must retire at sixty years of age except that on recommendation of the chief of police, the board of police commissioners may permit such member who is sixty years of age or over to remain in service until such member reaches the age of sixty-five years. Such member shall continue to make contributions and receive credit for service until reaching sixty-five years of age, until retirement, or until completion of thirty years of creditable service, whichever occurs first. If such member shall reach sixty-five years of age or shall retire prior to completion of twenty-five years of service, the base pension of such member shall be calculated under subsection 3 of this section.



3. Except as provided in section 86.1100 or in subsection 2 of this section, any member in service who shall have attained sixty years of age and at that time shall have completed at least ten but less than thirty years of creditable service shall retire and shall receive a base pension equal to:

(1) For a member retiring prior to August 28, 2000, two percent of such member's final compensation, as defined in section 86.900, multiplied by the number of years of such member's total creditable service; or

(2) For a member retiring on or after August 28, 2000, two and one-half percent of such member's final compensation as defined in section 86.900 multiplied by the number of years of such member's total creditable service.

4. Subject to the provisions of subsection 5 of this section, whenever the service of a member is terminated for any reason prior to death or retirement and the member has fifteen or more years of creditable service, the member may elect not to withdraw such member's accumulated contributions and shall become entitled to a base pension [beginning at] **commencing on the first day of the month following the attainment of** the age of fifty-five, if then living, equal to:

(1) For a member whose service so terminates prior to August 28, 2001, two percent of such member's final compensation multiplied by the number of years of such member's creditable service; or

(2) For a member whose service so terminates on or after August 28, 2001, two and one-half percent of such member's final compensation multiplied by the number of years of such member's creditable service.

5. Notwithstanding any other provisions of sections 86.900 to 86.1280, any member who is convicted of a felony prior to separation from active service shall not be entitled to any benefit from this retirement system except the return of such member's accumulated contributions.

**86.1230. SUPPLEMENTAL RETIREMENT BENEFITS, AMOUNT — MEMBER TO BE SPECIAL CONSULTANT, COMPENSATION.** — 1. Any member who retires subsequent to August 28, 1991, with entitlement to a pension under sections 86.900 to 86.1280, shall receive [each month], in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, a supplemental retirement benefit of fifty dollars per month. The amount of such supplemental retirement benefit may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually.

2. Any member who was retired on or before August 28, 1991, and is receiving retirement benefits from the retirement system shall, upon application to the retirement board, be retained as a consultant, and for such services such member shall receive [each month], in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, a supplemental compensation in the amount of fifty dollars per month. This appointment as a consultant shall in no way affect any member's eligibility for retirement benefits under the provisions of sections 86.900 to 86.1280, or in any way have the effect of reducing retirement benefits otherwise payable to such member. The amount of such supplemental compensation under this subsection may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually.

3. For purposes of subsections 1 and 2 of this section, the term "member" shall include a surviving spouse entitled to a benefit under sections 86.900 to 86.1280 who shall be deemed to have retired for purposes of this section on the date of retirement of the member of whom such person is the surviving spouse or on the date of death of such member if such member died prior to retirement; provided, that if the surviving spouse of any member who retired prior to August 28, 2000, shall not have remarried prior to August 28, 2000, but remarries thereafter, such surviving spouse shall thereafter receive benefits under subsection 2 of this section, and provided further, that no benefits shall be payable under this section to the surviving spouse of any member who retired

prior to August 28, 2000, if such surviving spouse was at any time remarried after the member's death and prior to August 28, 2000. All benefits payable to a surviving spouse under this section shall be in addition to all other benefits to which such surviving spouse may be entitled under other provisions of sections 86.900 to 86.1280. Any such surviving spouse of a member who dies while entitled to payments under this section shall succeed to the full amount of payment under this section to which such member was entitled at the time of such member's death, including any cost-of-living adjustments received by such member in the payment under this section prior to such member's death. In all events, the term "member" shall not include any children of the member who would be entitled to receive part or all of the pension which would be received by a surviving spouse if living.

4. Any member who is receiving benefits from the retirement system and who either was retired under the provisions of subdivision (1) of subsection 1 of section 86.1150, or who retired before August 28, 2001, under the provisions of section 86.1180 or section 86.1200, shall, upon application to the retirement board, be retained as a consultant. For such services such member shall receive each month in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, an equalizing supplemental compensation of ten dollars per month. This appointment as a consultant shall in no way affect any member's eligibility for retirement benefits under the provisions of sections 86.900 to 86.1280, or in any way have the effect of reducing retirement benefits otherwise payable to such member. The amount of equalizing supplemental compensation under this subsection may be adjusted by cost-of-living adjustments, determined by the retirement board not more frequently than annually, but in no event shall the aggregate of such equalizing supplemental compensation together with all such cost-of-living adjustments thereto exceed twenty-five percent of the member's base pension. Each cost-of-living adjustment to compensation under this subsection shall be determined independently of any cost-of-living adjustment to any other benefit under sections 86.900 to 86.1280. For the purposes of this subsection, the term "member" shall include a surviving spouse entitled to benefits under the provisions of sections 86.900 to 86.1280, and who is the surviving spouse of a member who qualified, or would have qualified if living, for compensation under this subsection. Such surviving spouse shall, upon application to the retirement board, be retained as a consultant, and for such services shall be compensated in an amount equal to the compensation which would have been received by the member under this subsection, if living. Any such surviving spouse of a member who dies while entitled to payments under this subsection shall succeed to the full amount of payment under this subsection to which such member was entitled at the time of such member's death, including any cost-of-living adjustments received by such member in the payment under this subsection prior to such member's death. In all events, the term "member" shall not include any children of the member who would be entitled to receive part or all of the pension that would be received by a surviving spouse, if living.

5. A surviving spouse who is entitled to benefits under the provisions of subsection 1 of section 86.1240 as a result of the death prior to August 28, 2007, of a member in service, and who is receiving benefits from the retirement system, shall, upon application to the retirement board, be retained as a consultant, and for such services such surviving spouse shall receive each month an equalizing supplemental compensation of ten dollars per month. A surviving spouse entitled to benefits under the provisions of subsection 1 of section 86.1240 as a result of the death of a member in service on or after August 28, 2007, shall receive each month an equalizing supplemental benefit of ten dollars per month. All benefits payable to a surviving spouse under this subsection shall be in addition to all other benefits to which such surviving spouse may be entitled under other provisions of sections 86.900 to 86.1280 and shall in no way have the effect of reducing benefits otherwise payable to such surviving spouse. The amount of equalizing supplemental benefit or equalizing supplemental compensation under this subsection may be adjusted by cost-of-living adjustments, determined by the retirement board not more frequently

than annually, but in no event shall the aggregate of such equalizing supplemental benefit or compensation together with all such cost-of-living adjustments thereto exceed twenty-five percent of the base pension of the surviving spouse. Each cost-of-living adjustment to an equalizing supplemental benefit or compensation under this subsection shall be determined independently of any cost-of-living adjustment to any other benefit under sections 86.900 to 86.1280. In all events the term "surviving spouse" as used in this subsection shall not include any children of the member who would be entitled to receive part or all of the pension that would be received by a surviving spouse, if living.

6. In determining and granting the cost-of-living adjustments under this section, the retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section, including provisions for the manner of computation of such adjustments and the effective dates thereof. The retirement board shall provide for such adjustments to be determined once each year and granted on a date or dates to be chosen by the board. The retirement board shall not be required to prorate the initial adjustment to any benefit or compensation under this section for any member.

7. The determination of whether the retirement system will remain actuarially sound shall be made at the time any cost-of-living adjustment under this section is granted. If at any time the retirement system ceases to be actuarially sound, any benefit or compensation payments provided under this section shall continue as adjusted by increases or decreases theretofore granted. A member of the retirement board shall have no personal liability for granting increases under this section if that retirement board member in good faith relied and acted upon advice of a qualified actuary that the retirement system would remain actuarially sound.

**86.1240. PENSIONS OF SPOUSES OF DECEASED MEMBERS — SURVIVING SPOUSE TO BE APPOINTED AS CONSULTANT TO BOARD, WHEN.** — 1. Upon receipt of the proper proofs of death of a member in service for any reason whatsoever, there shall be paid to such member's surviving spouse, if any, in addition to all other benefits but subject to subsection [7] 6 of this section, a base pension equal to forty percent of the final compensation of such member, subject to adjustments, if any, as provided in section 86.1220.

2. (1) Upon receipt of the proper proofs of death of a member who was retired or terminated service after August 28, 1999, and died after [commencement of benefits to such member] **having become entitled to benefits** from this retirement system, there shall be paid to such member's surviving spouse, if any, in addition to all other benefits but subject to subsection [7] 6 of this section, a base pension equal to eighty percent of the pension being received by such member, including cost-of-living adjustments to such pension but excluding supplemental retirement benefits, at the time of such member's death, subject to subsequent adjustments, if any, as provided in section 86.1220. The pension provided by this subdivision shall terminate upon remarriage by the surviving spouse prior to August 28, 2000.

(2) (a) Upon receipt of the proper proof of death of a member who retired or terminated service on or before August 28, 1999, and who died after August 28, 1999, and after [commencement of benefits to such member] **having become entitled to benefits** from this retirement system, such member's surviving spouse, if any, shall be entitled to a base pension equal to forty percent of the final compensation of such member.

(b) Such a surviving spouse shall, upon application to the retirement board, be appointed by the retirement board as a consultant and be compensated in an amount equal to the benefits such spouse would receive under subdivision (1) of this subsection if the member had retired or terminated service after August 28, 1999.

(c) The benefits provided by this subdivision shall terminate upon remarriage by the surviving spouse prior to August 28, 2000.

3. In the case of any member who, prior to August 28, 2000, died in service or retired, the surviving spouse who would qualify for benefits under subsection 1 or 2 of this section but for

remarriage, and who has not remarried prior to August 28, 2000, but remarries thereafter, shall upon application be appointed by the retirement board as a consultant. For services as such consultant, such surviving spouse shall be compensated in an amount equal to the benefits such spouse would have received under sections 86.900 to 86.1280 in the absence of such remarriage.

4. [For purposes of this section, commencement of benefits shall begin, for any benefit, at such time as all requirements of sections 86.900 to 86.1280 have been met entitling the member to a payment of such benefit at the next following payment date with the amount thereof established, regardless of whether the member has received the initial payment of such benefit.

5.] Upon the death of any member who is in service after August 28, 2000, and who either had at least twenty-five years of creditable service or was retired or died as a result of an injury or illness occurring in the line of duty or course of employment under section 86.1180, the surviving spouse's benefit provided under this section, without including any supplemental retirement benefits paid such surviving spouse by this retirement system, shall be six hundred dollars per month. For any member who died, retired or terminated service on or before August 28, 2000, and who either had at least twenty-five years of creditable service or was retired or died as a result of an injury or illness occurring in the line of duty or course of employment under section 86.1180, the surviving spouse shall upon application to the retirement board be appointed by the retirement board as a consultant. For services as such consultant, the surviving spouse shall, beginning the later of August 28, 2000, or the time the appointment is made under this subsection, be compensated in an amount which without including supplemental retirement benefits provided by this system shall be six hundred dollars monthly. A pension benefit under this subsection shall be paid in lieu of any base pension as increased by cost-of-living adjustments granted under section 86.1220. The benefit under this subsection shall not be subject to cost-of-living adjustments, but shall be terminated and replaced by the base pension and cost-of-living adjustments to which such spouse would otherwise be entitled at such time as the total base pension and such adjustments exceed six hundred dollars monthly.

[6.] 5. A surviving spouse who is entitled to benefits under the provisions of subsection 1 of this section as a result of the death on or before August 28, 2009, of a member in service who is receiving benefits under sections 86.900 to 86.1280 and who does not qualify under the provisions of subsection [5] 4 of this section shall, upon application to the retirement board, be appointed as a consultant, and for such services such surviving spouse shall be compensated in an amount which, without including any supplemental retirement benefits provided by sections 86.900 to 86.1280, shall be six hundred dollars monthly. A pension benefit under this subsection shall be paid in lieu of any base pension as increased by cost-of-living adjustments granted under section 86.1220. The benefit under this subsection shall not be subject to cost-of-living adjustments, but shall be terminated and replaced by the base pension and cost-of-living adjustments to which such surviving spouse would otherwise be entitled at such time as the total base pension and such adjustments exceed six hundred dollars monthly. As used in this subsection, "surviving spouse" shall not include any children of the member who would be entitled to receive part or all of the pension that would be received by a surviving spouse, if living.

[7.] 6. Any beneficiary of benefits under sections 86.900 to 86.1280 who becomes the surviving spouse of more than one member shall be paid all benefits due a surviving spouse of that member whose entitlements produce the largest surviving spouse benefits for such beneficiary but shall not be paid surviving spouse benefits as the surviving spouse of more than one member.

**86.1250. PENSIONS OF CHILDREN OF DECEASED MEMBERS.** — 1. (1) Upon the death of a member in service or after retirement [and commencement of benefits], such member's child or children under the age of eighteen years at the time of the member's death shall be paid fifty dollars per month each until he or she shall attain the age of eighteen years; however, each such child who is or becomes a full-time student at an accredited educational institution shall continue

to receive payments under this section for so long as such child shall remain such a full-time student or shall be in a summer or other vacation period scheduled by the institution with intent by such child, demonstrated to the satisfaction of the retirement board, to return to such full-time student status upon the resumption of the institution's classes following such vacation period, but in no event shall such payments be continued after such child shall attain the age of twenty-one years except as hereinafter provided.

(2) Any child eighteen years of age or older, who is physically or mentally incapacitated from wage earning, so long as such incapacity exists as certified by a member of the medical board, shall be entitled to the same benefits as a child under the age of eighteen. For purposes of this section, a determination of whether a child of a member is physically or mentally incapacitated from wage earning so that the child is entitled to benefits under this section shall be made at the time of the member's death. If a child becomes incapacitated after the member's death, or if a child's incapacity existing at the member's death is removed and such child later becomes incapacitated again, such child shall not be entitled to benefits as an incapacitated child under the provisions of this section. A child shall be deemed incapacitated only for so long as the incapacity existing at the time of the member's death continues.

(3) Notwithstanding any other law to the contrary, amounts payable under subdivision (1) or (2) of this subsection shall not be subject to offset or reduction by amounts paid or payable under any workers' compensation or similar law.

2. Upon or after the death of a member in service or after retirement [and commencement of] **with entitlement to** benefits, if there is no surviving spouse or if a surviving spouse dies, the total amount, including any amounts receivable as consulting compensation, but not including any supplemental benefits under section 86.1230, which would be received by a qualified surviving spouse or which is being received by the surviving spouse at the date of death of such surviving spouse shall be added to the amounts received by and shall be divided among the children of such member under the age of eighteen years and the incapacitated children in equal shares. As each such child attains the age of eighteen years or has such incapacity removed, such total amount shall then be divided among the remaining such children, until there is no remaining child of such member under the age of eighteen years or incapacitated, at which time all benefits for children of such member under this subsection shall cease.

3. Upon the death of a member in service or after retirement [and commencement of benefits], a funeral benefit of one thousand dollars shall be paid to the person or entity who provided or paid for the funeral services for such member.

[4. If no benefits are otherwise payable to a surviving spouse or child of a deceased member, the member's accumulated contributions, to any extent not fully paid to such member prior to the member's death or to the surviving spouse or child of such member, shall be paid in one lump sum to the member's named beneficiary or, if none, to the member's estate, and such payment shall constitute full and final payment of any and all claims for benefits under the retirement system.

5. For purposes of this section, commencement of benefits shall begin, for any benefit, at such time as all requirements of sections 86.900 to 86.1280 have been met entitling the member to a payment of such benefit at the next following payment date with the amount established, regardless of whether the member has received the initial payment of such benefit.]

**86.1310. DEFINITIONS.** — The following words and phrases as used in sections 86.1310 to 86.1640 shall have the following meanings unless a different meaning is plainly required by the context:

(1) "Accumulated contributions", the sum of all amounts deducted from the compensation of a member and paid to the retirement board, together with all amounts paid to the retirement board by a member or by a member's beneficiary for the purchase of prior service credits or any other

purpose permitted under sections 86.1310 to 86.1640, in all cases with interest, **if any**, thereon at a rate determined from time to time for such purpose by the retirement board;

(2) **"Actuarial cost", the present value of a future payment or series of payments as calculated by applying the actuarial assumptions established according to subsection 8 of section 86.1630;**

(3) **"Beneficiary", any person entitled, either currently or conditionally, to receive pension or other benefits provided in sections 86.1310 to 86.1640;**

[(3)] (4) **"Board of police commissioners", the board composed of police commissioners authorized by law to employ and manage an organized police force in the cities;**

[(4)] (5) **"City" or "cities", any city which now has or may hereafter have a population of more than three hundred thousand and less than seven hundred thousand inhabitants, or any city that has made an election under section 86.1320 to continue a civilian employees' retirement system theretofore maintained under sections 86.1310 to 86.1640;**

[(5)] (6) **"Compensation", the basic wage or salary paid a member for any period, excluding bonuses, overtime pay, expense allowances, and other extraordinary compensation; except that, notwithstanding such provision, compensation for any year for any member shall not exceed the amount permitted to be taken into account under Section 401(a)(17) of the Internal Revenue Code as applicable to such year;**

[(6)] (7) **"Consultant", unless otherwise specifically defined, means a person retained by the retirement system as a special consultant on the problems of retirement, aging and related matters who, upon request of the retirement board, shall give opinions and be available to give opinions in writing or orally in response to such requests, as may be needed by the board;**

[(7)] (8) **"Creditable service", service qualifying as a determinant of a member's pension or other benefit under sections 86.1310 to 86.1640 by meeting the requirements specified in such sections, or section 105.691;**

[(8)] (9) **"Employee", any regularly appointed civilian employee of the police department of the city as specified in sections 86.1310 to 86.1640 who is:**

(a) **Appointed prior to August 28, 2011, and is not eligible to receive a pension from the police retirement system of said city;**

(b) **Appointed on or after August 28, 2011, and is not eligible to receive a pension from the police retirement system of such city or from any other retirement or pension system of such city;**

[(9)] (10) **"Final compensation", the average annual compensation of a member during the member's service if less than two years, or the twenty-four months of service for which the member received the highest salary whether consecutive or otherwise. For any period of time when a member is paid on a frequency other than monthly, the member's salary for such period shall be deemed to be the monthly equivalent of the member's annual rate of compensation for such period;**

[(10)] (11) **"Internal Revenue Code", the United States Internal Revenue Code of 1986, as amended;**

[(11)] (12) **"Medical board", not less than one nor more than three physicians appointed by the retirement board to arrange for and conduct medical examinations as directed by the retirement board;**

[(12)] (13) **"Member", a member of the civilian employees' retirement system as described in section 86.1480;**

[(13)] (14) **"Pension", annual payments for life, payable monthly, [beginning with the date of retirement or other applicable commencement date and ending with death] at the times described in section 86.1420;**

[(14)] (15) "Pension fund", the fund resulting from contributions made thereto by the cities affected by sections 86.1310 to 86.1640 and by the members of the civilian employees' retirement system;

[(15)] (16) "Retirement", termination of a member's status as an employee of the police department of the city at a time when the member or the member's beneficiary is immediately entitled to one or more benefits under sections 86.1310 to 86.1640;

[(16)] (17) "Retirement board" or "board", the board provided in section 86.1330 to administer the retirement system;

[(17)] (18) "Retirement system", the civilian employees' retirement system of the police department of the cities as defined in section 86.1320;

[(18)] (19) "Surviving spouse", when determining whether a person is entitled to benefits under sections 86.1310 to 86.1640 by reason of surviving a member, shall include only:

(a) The person who was married to the member at the time of the member's death in service prior to August 28, 2001, and who had not remarried prior to August 28, 2001;

(b) The person who was married to the member at the time of the member's death in service on or after August 28, 2001;

(c) In the case of any member who both retired and died prior to August 28, 2001, the person who was married to the member at the time of the member's death and who had not remarried prior to August 28, 2001;

(d) In the case of any member who retired prior to August 28, 2001, and died on or after that date, the person who was married to the member at the time of the member's death; or

(e) In the case of any member who retired on or after August 28, 2001, the person who was married to the member at both the time of the member's retirement and the time of the member's death.

**86.1420. BENEFITS AND ADMINISTRATIVE EXPENSES TO BE PAID BY SYSTEM FUNDS — COMMENCEMENT OF BASE PENSION, WHEN — DEATH OF MEMBER, EFFECT OF. — 1.** All benefits and all necessary administrative expenses of the retirement system shall be paid from the funds of the retirement system.

**2.** The base pension of a member who, after August 28, 2011, retires from or otherwise terminates active service with entitlement to a base pension under sections 86.1310 to 86.1640 shall commence as of the first day of the month next following such retirement or termination with no proration of such pension for the month in which such retirement or termination occurs. The supplemental retirement benefit of a member who, after August 28, 2011, retires from or otherwise terminates active service with entitlement to a supplemental retirement benefit provided in subsection 1 of section 86.1600 shall commence as of the first day of the month next following such retirement or termination with no proration of such supplemental retirement benefit for the month in which such retirement or termination occurs.

**3.** Upon the death of a member in service who leaves a surviving spouse, as defined in section 86.1310, entitled to benefits, any base pension which such surviving spouse shall elect under subdivision (2) of subsection 1 of section 86.1610 or under paragraph (b) of subdivision (3) of subsection 1 of section 86.1610 shall commence the later of the first day of the month next following such death or the first day of the month following the date which would have been the member's earliest possible retirement date permitted under subsection 2 of section 86.1540 with no proration of such pension for the month prior to such commencement date. Any base pension which such surviving spouse shall elect under paragraph (c) of subdivision (3) of subsection 1 of section 86.1610 shall commence the first day of the month next following such death with no proration of such pension for the month prior to such commencement date.

4. Upon the death of a member who is receiving a base pension under sections 86.1310 to 86.1640 leaving a surviving spouse, as defined in section 86.1310, entitled to benefits, the pension of such surviving spouse shall commence on the first day of the month next following such death with no proration for the month in which such death occurs.

5. All payments of any benefit shall be paid on the first business day of each month for that month. For any benefit under sections 86.1310 to 86.1640, the retirement system shall withhold payment of such benefit until all requisite documentation has been filed with the retirement system evidencing the entitlement of the payee to such payment. The final payment due to a retired member shall be the payment due on the first day of the month in which such member's death occurs. The final payment due to any surviving spouse shall be the payment due on the first day of the month in which such surviving spouse dies or otherwise ceases to be entitled to benefits under sections 86.1310 to 86.1640.

6. If no benefits are otherwise payable to a surviving spouse of a deceased member or otherwise as provided in this section, the member's accumulated contributions, to any extent not fully paid to such member prior to the member's death or to the surviving spouse of such member or otherwise as provided in this section, shall be paid in one lump sum to the member's beneficiary named by such member in a writing filed with the retirement system prior to the member's death for the purpose of receiving such benefit, and if no beneficiary is named, then to such member's estate. Such payment shall constitute full and final payment of any and all claims for benefits under the retirement system, except as provided in section 86.1620.

**86.1480. WHO SHALL BE MEMBERS.** — 1. Every person who becomes an employee, as defined in subdivision [(8)] (9) of section 86.1310, after August 28, 2001, shall become a member of the retirement system defined in sections 86.1310 to 86.1640 as a condition of such employment.

2. Every person who was a member of the retirement system on or before August 28, 2001, shall remain a member.

3. Every person who was an employee, as defined in subdivision [(8)] (9) of section 86.1310, on August 28, 2001, but was not a member, shall become a member as a condition of employment upon the completion of six months' continuous employment.

**86.1490. CREDITABLE SERVICE, DETERMINATION OF — INCLUSIONS AND EXCLUSIONS.** — 1. The retirement board shall fix and determine by proper rules and regulations how much service in any year is equivalent to one year of service. In no case shall more than one year of service be creditable for all service rendered in one calendar year. The retirement board shall not allow credit as service for any period during which the member was absent without compensation, except as provided in subsection 3 of this section and subsection 3 of section 86.1500.

2. Except as provided in subsection 3 of section 86.1500, creditable service at retirement on which the retirement allowance of a member is based consists of the membership service rendered by such member [for which such member received compensation] since such member last became a member.

3. Except as provided in subsection 3 of section 86.1500, if a member is on leave of absence without compensation, such member shall not receive service credits for such time unless such member shall return to active service and purchase such creditable service at the actuarial cost. The actuarial cost shall be determined at the time the member makes such purchase.



[2.] 4. Creditable service also includes any prior service credit to which a member may be entitled by virtue of an authorized purchase of such credit or as otherwise provided in sections 86.1310 to 86.1640.

[3.] 5. Creditable service shall not include any time a member was suspended from service without compensation. No contribution is required from either the member under section 86.1400 or from the city under section 86.1390 for such time.

**86.1500. MILITARY SERVICE, EFFECT ON CREDITABLE SERVICE — ELECTION TO PURCHASE CREDITABLE SERVICE, WHEN — SERVICE CREDIT FOR MILITARY SERVICE, WHEN.**

— 1. Whenever a member is given a leave of absence for military service and returns to employment after discharge from the service, such member shall be entitled to creditable service for the years of employment prior to the leave of absence.

2. Except as provided in subsection 3 of this section, a member who served on active duty in the armed forces of the United States and who became a member, or returned to membership, after discharge under honorable conditions, may elect prior to retirement to purchase creditable service equivalent to such service in the armed forces, not to exceed two years, provided the member is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan for the service to be purchased, other than a United States military service retirement system or United States Social Security benefits attributable to such military service, and an affidavit so stating is filed by the member with the retirement system. A member electing to make such purchase shall pay to the retirement system an amount equal to the actuarial [value] **cost** of the additional benefits attributable to the additional service credit to be purchased, as of the date the member elects to make such purchase. [The retirement system shall determine such value using accepted actuarial methods and the same assumptions with respect to interest rates, mortality, future salary increases, and all related factors used in performing the most recent regular actuarial valuation of the retirement system.] Payment in full of the amount due from a member electing to purchase creditable service under this subsection shall be made over a period not to exceed five years, measured from the date of election, or prior to the commencement date for payment of benefits to the member from the retirement system, whichever is earlier, including interest on unpaid balances compounded annually at the interest rate assumed from time to time for actuarial valuations of the retirement system. If payment in full including interest is not made within the prescribed period, any partial payments made by the member shall be refunded, and no creditable service attributable to such election, or as a result of any such partial payments, shall be allowed; provided that if a benefit commencement date occurs because of the death or disability of a member who has made an election under this subsection and if the member is current in payments under an approved installment plan at the time of the death or disability, such election shall be valid if the member, the surviving spouse or other person entitled to benefit payments pays the entire balance of the remaining amount due, including interest to the date of such payment, within sixty days after the member's death or disability. The time of a disability shall be deemed to be the time when such member is determined by the retirement board to be totally and permanently disabled as provided in section 86.1560.

3. Notwithstanding any other provision of sections 86.1310 to 86.1640, a member who is on leave of absence for military service during any portion of which leave the United States is in a state of declared war, or a compulsory draft is in effect for any of the military branches of the United States, or any units of the military reserves of the United States, including the National Guard, are mobilized for combat military operations, and who becomes entitled to reemployment rights and other employment benefits under Title 38, Chapter 43 of the U.S. Code, relating to employment and reemployment rights of members of the uniformed services by meeting the requirements for such rights and benefits under Section 4312 of said chapter, or the corresponding provisions of any subsequent applicable [U.S.] **federal** statute, shall be entitled to service credit for the time spent in such military service for all purposes of sections 86.1310 to 86.1640 and such

member shall not be required to pay any member contributions for such time. If it becomes necessary for the years of such service to be included in the calculation of such member's compensation for any purpose, such member shall be deemed to have received the same compensation throughout such period of service as the member's base annual salary immediately prior to the commencement of such leave of absence.

**86.1510. MEMBERS ENTITLED TO PRIOR CREDITABLE SERVICE, WHEN.** — Members who terminate membership with three years or more of creditable service and later return to membership may be given credit toward retirement for prior creditable service, subject to the condition that such member deposit in the pension fund a sum equal to the [accumulated contributions which had been paid to such member upon the prior termination. Such repayment of withdrawn contributions shall be accompanied by an additional payment of interest equal to the amount of the actual net yield earned or incurred by the pension fund, including both net income after expenses and net appreciation or depreciation in values of the fund, whether realized or unrealized, during the period of time from the date upon which such contributions had been withdrawn to the date of repayment thereof, determined in accordance with such rules for valuation and accounting as may be adopted by the retirement board for such purposes] **member's portion of the actuarial cost to restore such service. The member's portion of the actuarial cost is determined on the ratio of the member's contribution rate to the total of the member and employer contribution rates at the time the member elects to purchase the creditable service.**

**86.1540. NORMAL PENSION, AMOUNT — EARLY RETIREMENT OPTION, WHEN — ELECTION FOR OPTIONAL BENEFIT FOR SPOUSE — PENSION AFTER FIVE YEARS OF CREDITABLE SERVICE — FELONY CONVICTION, EFFECT OF.** — 1. (1) Upon retirement on or after a member's normal retirement date, such member shall receive a base pension in the amount of two percent of such member's final compensation times the number of years, including fractions thereof, of such member's creditable service.

(2) Such member may elect to receive a different base pension under an election permitted under this section or section 86.1580.

2. Members may elect early retirement as follows:

(1) Beginning at age fifty-five, if the member has completed at least ten years of creditable service or at any later age after the member has completed at least ten years of creditable service. Unless subdivision (3) of this subsection shall be applicable, the benefit as computed under subsection 1 of this section shall be reduced by one-half of one percent for each **full** month the [effective date] **initial payment** is prior to the first day of the month following that in which such member will attain age sixty;

(2) Beginning at age sixty, if the member has completed at least five but not more than ten years of creditable service or at any later age after the member has completed at least five years of creditable service. Unless subdivision (3) of this subsection shall be applicable, the benefit as computed under subsection 1 of this section shall be reduced by one-half of one percent for each **full** month the [effective date] **initial payment** is prior to the first day of the month following that in which such member will attain age sixty-five; or

(3) At any time after the member's total of age and years of creditable service equals or exceeds eighty, in which event the benefit shall be as computed under subsection 1 of this section without any reduction. If an election for early retirement results in a reduced benefit under subdivision (1) or (2) of this subsection, such reduced benefit shall become the member's base pension, subject to all other adjustments described in this section.

3. (1) A member who is married at the time of retirement may by a written election, with the written consent of such member's spouse, elect an optional benefit calculated as follows: such

optional benefit shall be a monthly pension in the initial amount which shall be actuarially equivalent to the actuarial value of the pension described in subdivision (1) of subsection 1 of this section for such member at the date of retirement (including the value of survivorship rights of a surviving spouse, where applicable, under section 86.1610), upon the basis that the initial annuity for the member's spouse, if such spouse survives the member, shall be the same as the amount being paid the member on such annuity at the member's death, and, subject to cost-of-living adjustments thereafter declared on the spouse's base pension under section 86.1590, shall be paid to such surviving spouse for the lifetime of such spouse without regard to remarriage. If a member who makes an election of an optional benefit under this subsection has also elected an early retirement under either subdivision (1) or (2) of subsection 2 of this section, any reduction in benefit required for such early retirement election shall be calculated before calculating the initial amount of the optional benefit under this subsection.

(2) If a member who makes the election permitted by this subsection also makes an election permitted under section 86.1580, such optional benefit shall be reduced as provided in subdivision (3) of subsection 2 of section 86.1580.

(3) If a member makes the election permitted by this subsection, the amount calculated for such optional benefit under either subdivision (1) or (2) of this subsection shall be the base pension for such member and for such member's spouse for all purposes of sections 86.1310 to 86.1640.

(4) An election for an optional benefit under this subsection shall be void if the member dies within thirty days after filing such election with the retirement system or if the member dies before the due date of the first payment of such member's pension.

4. Subject to the provisions of subsection [7] **6** of this section, whenever the service of a member is terminated after August 28, 1999, for any reason prior to death or retirement and the member has five or more years of creditable service, the member may elect not to withdraw such member's accumulated contributions and shall become entitled to receive a pension upon such member's normal retirement date under subdivision (1) of subsection 1 of this section or may elect to receive a pension commencing upon or after any date, prior to his or her normal retirement date, upon which early retirement would have been permitted under subsection 2 of this section if such member had remained a civilian employee of such police department, except that in calculating any qualification under subsection 2 of this section, such member shall not be entitled to count any year of creditable service in excess of such member's total years of creditable service at the time of such member's termination of employment. The amount of any pension commenced upon the basis of a date permitted under subsection 2 of this section shall be computed on the basis of the member's final compensation and number of years of creditable service, subject to such adjustments as may be applicable under the subdivision of subsection 2 of this section upon which such member relies in electing [the commencement of] such member's pension and subject to any other adjustments that such member may elect under this section. The amount of the initial pension calculated after all applicable adjustments shall be the base pension for such member, and for such member's spouse if such member shall elect the optional benefit permitted under subsection 3 of this section, for all purposes of sections 86.1310 to 86.1640. **Payment of any benefits elected under this subsection shall commence as of the first day of the month next following the applicable date with no proration of such benefit for any initial partial month.**

5. A member whose service was terminated on or before August 28, 1999, after five or more years of creditable service, and who permitted such member's accumulated contributions to remain in the pension fund, shall upon application to the retirement board be appointed as a consultant. For services as such consultant, such member shall, beginning the later of August 28, 1999, or the time of such appointment under this subsection, be entitled to elect to receive compensation in such amount and [commencing] at such time as such member would have been entitled to elect under any of the provisions of subsection 4 of this section if such member had terminated service after August 28, 1999. Such member shall be entitled to the same cost-of-living adjustments following

the commencement of such compensation as if such member's compensation had been a base pension.

6. [All payments of any pension shall be paid on the first day of each month for that month. The first payment shall be paid on the first day of the first month in which the member's benefit can be determined and processed for payment, and shall include benefits from the date of retirement to the date of such first payment. The final payment due a retired member shall be the payment due on the first day of the month in which such member's death occurs.

7.] Notwithstanding any other provisions of sections 86.1310 to 86.1640, any member who is convicted of a felony prior to separation from active service shall not be entitled to any benefit from this retirement system except the return of such member's accumulated contributions.

**86.1560. DISABILITY RETIREMENT PENSION, AMOUNT — DEFINITIONS — BOARD TO DETERMINE DISABILITY, PROOF MAY BE REQUIRED.** — 1. A member in active service who becomes totally and permanently disabled, as defined in this section, shall be entitled to retire and to receive a base pension determined in accordance with the terms of this section. Members who are eligible and totally and permanently disabled shall receive a disability pension computed as follows:

- (1) Duty disability, fifty percent of final compensation as of the date of disability;
- (2) Nonduty disability, thirty percent of final compensation as of the date of disability, provided that a nonduty disability pension shall not be available to any member with less than ten years creditable service;
- (3) In no event shall the disability pension be less than the amount to which the member would be entitled as a pension if the member retired on the same date with equivalent age and creditable service.

2. [The final payment due a member receiving a disability pension shall be the payment due on the first day of the month in which such member's death occurs. Such member's surviving spouse, if any, shall be entitled to such benefits as may be provided under section 86.1610.

3.] For purposes of sections 86.1310 to 86.1640, the following terms shall mean:

- (1) "Duty disability", total and permanent disability directly due to and caused by actual performance of employment with the police department;
- (2) "Nonduty disability", total and permanent disability arising from any other cause than duty disability;
- (3) "Total and permanent disability", a state or condition which presumably prevents for the rest of a member's life the member's engaging in any occupation or performing any work for remuneration or profit. Such disability, whether duty or nonduty, must not have been caused by the member's own negligence or willful self-infliction.

[4.] 3. The retirement board in its sole judgment shall determine whether the status of total and permanent disability exists. Its determination shall be binding and conclusive. The retirement board shall rely upon the findings of a medical board of three physicians, and shall procure the written recommendation of at least one member thereof in each case considered by the retirement board. The medical board shall be appointed by the retirement board and expense for such examinations as are required shall be paid from funds of the retirement system.

[5.] 4. From time to time, the retirement board shall have the right to require proof of continuing disability which may include further examination by the medical board. Should the retirement board determine that disability no longer exists, it shall terminate the disability pension. A member who immediately returns to work with the police department shall again earn creditable service beginning on the first day of such return. Creditable service prior to disability retirement shall be reinstated. A member who does not return to work with the police department shall be deemed to have terminated employment at the time disability retirement commenced; but in calculating any benefits due upon such presumption, the retirement system shall receive credit for

all amounts paid such member during the period of disability, except that such member shall not be obligated in any event to repay to the retirement system any amounts properly paid during such period of disability.

**86.1600. SUPPLEMENTAL RETIREMENT BENEFIT, AMOUNT, COST-OF-LIVING ADJUSTMENTS — SPECIAL CONSULTANT, COMPENSATION — COST-OF-LIVING ADJUSTMENTS, RULEMAKING AUTHORITY — MEMBER DEFINED.** — 1. Any member who retires subsequent to August 28, 1997, and on or before August 28, 2007, with entitlement to a pension under sections 86.1310 to 86.1640, and any member who retires subsequent to August 28, 2007, with entitlement to a pension under sections 86.1310 to 86.1640 and who either has at least fifteen years of creditable service or is retired under subsection 1 of section 86.1560, shall receive [each month], in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1590, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.1310 to 86.1640, a supplemental retirement benefit of fifty dollars per month. The amount of such supplemental retirement benefit may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually.

2. Any member who was retired on or before August 28, 1997, and is receiving retirement benefits from the retirement system shall, upon application to the retirement board, be retained as a consultant, and for such services such member shall receive [each month], in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1590, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.1310 to 86.1640, a supplemental compensation in the amount of fifty dollars per month. This appointment as a consultant shall in no way affect any member's eligibility for retirement benefits under the provisions of sections 86.1310 to 86.1640, or in any way have the effect of reducing retirement benefits otherwise payable to such member. The amount of such supplemental compensation under this subsection may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually.

3. In determining and granting the cost-of-living adjustments under this section, the retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section, including provisions for the manner of computation of such adjustments and the effective dates thereof. The retirement board shall provide for such adjustments to be determined once each year and granted on a date or dates to be chosen by the board. The retirement board shall not be required to prorate the initial adjustment to any supplemental retirement benefit or any supplemental compensation under this section for any member.

4. For purposes of subsections 1 and 2 of this section, the term "member" shall include a surviving spouse who is entitled to a benefit under sections 86.1310 to 86.1640, who shall be deemed to have retired for purposes of this section on the date of retirement of the member of whom such person is the surviving spouse or on the date of death of such member if such member died prior to retirement; provided, that no benefits shall be payable under this section to the surviving spouse of any member who died while in active service after August 28, 2007, unless such death occurred in the line of duty or course of employment or as the result of an injury or illness incurred in the line of duty or course of employment or unless such member had at least fifteen years of creditable service. The surviving spouse of a member who died in service after August 28, 2007, whose death occurred in the line of duty or course of employment or as the result of an injury or illness incurred in the line of duty or course of employment shall be entitled to benefits under subsection 1 of this section without regard to such member's years of creditable service. All benefits payable to a surviving spouse under this section shall be in addition to all other benefits to which such surviving spouse may be entitled under other provisions of sections 86.1310 to 86.1640. Any qualifying surviving spouse of a member who dies while entitled to payments under this section shall succeed to the full amount of payment under this section to which such

member was entitled at the time of such member's death, including any cost-of-living adjustments received by such member in the payment under this section prior to such member's death.

5. The determination of whether the retirement system will remain actuarially sound shall be made at the time any cost-of-living adjustment under this section is granted. If at any time the retirement system ceases to be actuarially sound, supplemental retirement benefit payments under subsection 1 of this section and supplemental compensation payments as a consultant under subsection 2 of this section shall continue as adjusted by increases or decreases theretofore granted. A member of the retirement board shall have no personal liability for granting increases under this section if that retirement board member in good faith relied and acted upon advice of a qualified actuary that the retirement system would remain actuarially sound.

**86.1610. DEATH OF MEMBER IN SERVICE, BENEFIT TO BE RECEIVED — DEATH OF MEMBER AFTER RETIREMENT, BENEFIT TO BE RECEIVED — SURVIVING SPOUSE BENEFITS. —**

1. Upon receipt of the proper proofs of death of a member in service for any reason whatsoever, the following amounts shall be payable subject to subsection 4 of this section, and if a pension shall be elected, the initial amount thereof shall be the base pension for such surviving spouse:

(1) If the member has less than five years of creditable service, the member's surviving spouse shall be paid, in one lump sum, the amount of the member's accumulated contributions. If there is no surviving spouse, the member's accumulated contributions shall be paid [to the member's designated beneficiary, or if none, to the executor or administrator of the member's estate, and such payment shall be full and final settlement for all amounts due from the retirement system with respect to such member except as provided in subsection 1 of section 86.1620] **as provided in subsection 6 of section 86.1420;**

(2) If the member has at least five but fewer than twenty years of creditable service, the member's surviving spouse may elect the lump sum settlement in subdivision (1) of this subsection or a pension. Such pension shall be fifty percent of the member's accrued pension at date of death as computed in subdivision (1) of subsection 1 of section 86.1540, commencing [on the later of the day after the member's death, or the date which would have been the member's earliest possible retirement date permitted under subsection 2 of section 86.1540] **as provided in subsection 3 of section 86.1420;**

(3) If the member has at least twenty years of creditable service, the member's surviving spouse may elect any one of:

- (a) The lump sum settlement in subdivision (1) of this subsection;
- (b) The pension as computed in subdivision (2) of this subsection; or
- (c) A pension in the monthly amount determined on a joint and survivor's basis from the actuarial value of the member's accrued annuity at date of death;

(4) Any death of a retired member occurring before the first payment of the retirement pension shall be deemed to be a death prior to retirement;

(5) For the surviving spouse of a member who died in service after August 28, 2001, benefits payable under subsection 1 of this section shall continue for the lifetime of such surviving spouse without regard to remarriage.

2. Upon death of a member after retirement who has not elected the optional annuity permitted under subsection 3 of section 86.1540, the surviving spouse shall receive a base pension payable for life, equaling fifty percent of the member's base pension, as of the member's retirement date, subject to the following:

(1) No surviving spouse of a member who retires after August 28, 2001, shall be entitled to receive any benefits under sections 86.1310 to 86.1640 unless such spouse was married to the member at the time of the member's retirement; and

(2) Any surviving spouse who was married to such a member at the time of the member's retirement shall be entitled to all benefits for surviving spouses under sections 86.1310 to 86.1640 for the life of such surviving spouse without regard to remarriage.

3. In the case of any member who, prior to August 28, 2001, died in service or retired, the surviving spouse who would qualify for benefits under subsection 1 or 2 of this section but for remarriage, and has not remarried prior to August 28, 2001, but remarries thereafter, shall upon application be appointed by the retirement board as a consultant. For services as such consultant, such surviving spouse shall be compensated in an amount equal to the benefits such spouse would have received under sections 86.1310 to 86.1640 in the absence of such remarriage.

4. Any beneficiary of benefits under sections 86.1310 to 86.1640 who becomes the surviving spouse of more than one member shall be paid all benefits due a surviving spouse of that member whose entitlements produce the largest surviving spouse benefits for such beneficiary but shall not be paid surviving spouse benefits as the surviving spouse of more than one member, except that any surviving spouse for whom an election has been made for an optional benefit under subsection 3 of section 86.1540 shall be entitled to every optional benefit for which such surviving spouse has so contracted.

[5. The final payment due any surviving beneficiary shall be the payment due on the first day of the month in which such beneficiary dies or otherwise ceases to be entitled to benefits under this section.

6. If there is no surviving spouse, payment of the member's accumulated contributions less the amount of any prior payments from the retirement system to the member or to any beneficiary of the member shall be made to the member's designated beneficiary or, if none, to the personal representative of the member's estate.]

**86.1620. FUNERAL BENEFITS, AMOUNT.** — 1. [(1)] Upon the death after August 28, 2003, of a member in service, or upon the death of a member who was in service on or after August 28, 2003, and who dies after having been retired and pensioned, there shall be paid, in addition to all other benefits, a funeral benefit of one thousand dollars to the person or entity who provided or paid for the funeral services for such member.

[(2)] 2. Any member who was retired on or before August 28, 2003, and is receiving retirement benefits from the retirement system, upon application to the retirement board, shall be appointed by the retirement board as a consultant for the remainder of such member's life. Upon the death of such member, there shall be paid, in addition to all other benefits, a funeral benefit of one thousand dollars to the person or entity who provided or paid for the funeral services for such member.

[2. If no benefits are otherwise payable to a surviving spouse of a deceased member, the member's accumulated contributions, to any extent not fully paid to such member prior to the member's death or to the surviving spouse of such member, shall be paid in one lump sum to the member's named beneficiary or, if none, to the member's estate, and such payment shall constitute full and final payment of any and all claims for benefits under the retirement system.]

Approved July 8, 2011

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HB 186 [SCS HB 186]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Changes the laws regarding county officers**

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AN ACT to repeal section 51.050, RSMo, and to enact in lieu thereof three new sections relating to county officers.

SECTION

- A. Enacting clause.
- 51.050. Qualifications.
- 59.021. Qualifications when offices of clerk of the court and recorder of deeds are separate.
- 59.022. Vacancy when offices of clerk of the court and recorder of deeds are separate, how filled.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Section 51.050, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 51.050, 59.021, and 59.022, to read as follows:

**51.050. QUALIFICATIONS.** — No person shall be elected or appointed clerk of the county commission unless [he] **such person** be a citizen of the United States, over the age of twenty-one years, and shall have resided within the state one whole year, and within the county for which [he] **the person** is elected [six months] **one year** just prior to [his] **such person's** election; and every clerk shall after [his] **the** election continue to reside within the county for which [he] **such person** is clerk.

**59.021. QUALIFICATIONS WHEN OFFICES OF CLERK OF THE COURT AND RECORDER OF DEEDS ARE SEPARATE.** — **A candidate for county recorder where the offices of the clerk of the court and recorder of deeds are separate, except in any city not within a county or any county having a charter form of government, shall be at least twenty-one years of age, a registered voter, and a resident of the state of Missouri as well as the county, in which he or she is a candidate for at least one year prior to the date of the general election. Upon election to office, the person shall continue to reside in that county during his or her tenure in office.**

**59.022. VACANCY WHEN OFFICES OF CLERK OF THE COURT AND RECORDER OF DEEDS ARE SEPARATE, HOW FILLED.** — **In the event of a vacancy caused by death or resignation in the office of county recorder where the offices of the clerk of the court and recorder of deeds are separate, except in any city not within a county or any county with a charter form of government, the county commission shall appoint a deputy recorder or a qualified person to serve as an interim recorder of deeds until the unexpired term is filled under section 105.030.**

Approved July 7, 2011

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HB 190 [HB 190]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Authorizes divisions within the Department of Natural Resources to receive funds to be placed in a revolving fund for the purpose of cash transactions involving the sale of items made by the divisions**

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AN ACT to repeal section 253.082, RSMo, and to enact in lieu thereof three new sections relating to cash transactions by the department of natural resources.

SECTION

- A. Enacting clause.
- 253.082. Fund established for each facility head at state parks and scenic sites — purpose of fund — limitation, rules — revolving fund for sale of Division of State Parks items established..
- 256.055. Revolving fund for cash transactions involving the sale of Division of Geology and Land Survey items established.
- 640.045. Revolving fund for cash transactions for sale of items made by Department of Natural Resources divisions established.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Section 253.082, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 253.082, 256.055, and 640.045, to read as follows:

**253.082. FUND ESTABLISHED FOR EACH FACILITY HEAD AT STATE PARKS AND SCENIC SITES — PURPOSE OF FUND — LIMITATION, RULES — REVOLVING FUND FOR SALE OF DIVISION OF STATE PARKS ITEMS ESTABLISHED..** — **1.** Upon a request from the director of the department of natural resources, the commissioner of administration shall draw a warrant payable to the facility head of each of the state parks and historic sites in an amount to be specified by the director of the department of natural resources, but such amount shall not exceed the sum of one thousand five hundred dollars for each such facility. The sum so specified shall be placed in the hands of the facility head as a revolving fund to be used in the payment of the incidental expenses of the facility for which he has been appointed and for the refund of fees paid by the public. All expenditures shall be made in accordance with rules and regulations established by the commissioner of administration.

**2.** Upon a request from the director of the department of natural resources, the commissioner of administration shall draw a warrant payable to the director of the division of state parks in an amount to be specified by the director of the department of natural resources, but such amount shall not exceed the sum of five hundred dollars. The sum so specified shall be placed in the hands of the director of state parks as a revolving fund to be used in the cash transactions involving the sale of items made by the division of state parks. All transactions shall be made in accordance with rules and regulations established by the commissioner of administration.

**256.055. REVOLVING FUND FOR CASH TRANSACTIONS INVOLVING THE SALE OF DIVISION OF GEOLOGY AND LAND SURVEY ITEMS ESTABLISHED.** — Upon a request from the director of the department of natural resources, the commissioner of administration shall draw a warrant payable to the director of the division of geology and land survey in an amount to be specified by the director of the department of natural resources, but such amount shall not exceed the sum of five hundred dollars. The sum so specified shall be placed in the hands of the director of the division of geology and land survey as a revolving fund to be used in the cash transactions involving the sale of items made by the division of geology and land survey. All transactions shall be made in accordance with rules and regulations established by the commissioner of administration.

**640.045. REVOLVING FUND FOR CASH TRANSACTIONS FOR SALE OF ITEMS MADE BY DEPARTMENT OF NATURAL RESOURCES DIVISIONS ESTABLISHED.** — Upon a request from the director of the department of natural resources, the commissioner of administration shall draw a warrant payable to any and all of the directors of the various divisions of the

department in amounts to be specified by the director of the department of natural resources, but such amounts shall not exceed the sum of five hundred dollars each. The sum so specified shall be placed in the hands of the director of the relevant division as a revolving fund to be used in the cash transactions involving the sale of items made by that division. All transactions shall be made in accordance with rules and regulations established by the commissioner of administration.

Approved June 22, 2011

## HB 193 [CCS SS HCS HB 193]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

### Changes the composition of Congressional districts based on the 2010 census

AN ACT to repeal sections 128.345, 128.346, and 128.348, RSMo, and to enact in lieu thereof eleven new sections relating to the composition of congressional districts.

#### SECTION

- A. Enacting clause.
- 128.345. Definitions.
- 128.346. Congressional districts for election of representatives to the U.S. Congress.
- 128.348. Congressional districts to be established.
- 128.451. First congressional district (2010 census)
- 128.452. Second congressional district (2010 census)
- 128.453. Third congressional district (2010 census)
- 128.454. Fourth congressional district (2010 census)
- 128.455. Fifth congressional district (2010 census)
- 128.456. Sixth congressional district (2010 census)
- 128.457. Seventh congressional district (2010 census)
- 128.458. Eighth congressional district (2010 census)
- B. Graphical map representation of congressional district boundaries to be published.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 128.345, 128.346, and 128.348, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 128.345, 128.346, 128.348, 128.451, 128.452, 128.453, 128.454, 128.455, 128.456, 128.457, and 128.458, to read as follows:

**128.345. DEFINITIONS.** — All references in sections [128.400 to 128.440] **128.451 to 128.458** to counties, voting districts (VTD), and tract-blocks [(BLK)] **(Block)** mean those counties, voting districts (VTD), and tract-blocks [(BLK)] **(Block)** as reported to the state by the United States Bureau of the Census for the [2000] **2010** census.

**128.346. CONGRESSIONAL DISTRICTS FOR ELECTION OF REPRESENTATIVES TO THE U.S. CONGRESS.** — The districts established by the provisions of sections 128.400 to 128.440 for the election of representatives to the Congress of the United States shall be effective beginning with election to the 108th Congress **and through the election of the 112th Congress. The districts established by sections 128.451 to 128.458 for the election of representatives to the Congress of the United States shall be effective beginning with the election to the 113th Congress.**

**128.348. CONGRESSIONAL DISTRICTS TO BE ESTABLISHED.** — The state of Missouri is hereby divided into nine congressional districts. **Effective with the election for the 113th Congress, the state of Missouri shall consist of eight congressional districts.** The legal voters of each district shall elect one member of Congress of the United States.

**128.451. FIRST CONGRESSIONAL DISTRICT (2010 CENSUS) — The first congressional district shall be composed of the following:**

**St. Louis City MO County**

**St. Louis MO County (part)**

**VTD: AP001**

**VTD: AP002**

**VTD: AP003**

**VTD: AP004**

**VTD: AP005**

**VTD: AP006**

**VTD: AP007**

**VTD: AP008**

**VTD: AP009**

**VTD: AP010**

**VTD: AP011**

**VTD: AP013**

**VTD: AP014**

**VTD: AP015**

**VTD: AP016**

**VTD: AP018**

**VTD: AP019**

**VTD: AP020**

**VTD: AP021**

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**VTD: CC058 (part)**

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**VTD: CC224**

**VTD: CC225**

**VTD: CLA001**

**VTD: CLA005**

**VTD: CLA011 (part)**

**Block: 291892158002018**

**Block: 291892158006012**

**Block: 291892158006015**

**Block: 291892158006016**

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VTD: NRW019  
VTD: NRW020  
VTD: NRW021  
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VTD: NRW028  
VTD: NRW029

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**VTD: NRW031**  
**VTD: NRW032**  
**VTD: NRW033**  
**VTD: NRW034**  
**VTD: NRW035**  
**VTD: NRW036**  
**VTD: NRW037**  
**VTD: NRW038**  
**VTD: NRW039**  
**VTD: NRW040**  
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**VTD: NRW046**  
**VTD: NRW047**  
**VTD: NRW048**  
**VTD: NRW200**  
**VTD: NRW201**  
**VTD: NW002**  
**VTD: NW004**  
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**VTD: NW039**  
**VTD: NW040**  
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**VTD: NW047**  
**VTD: NW048**

VTD: NW050  
VTD: NW052  
VTD: NW200  
VTD: NW202  
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VTD: NW207  
VTD: NW208  
VTD: NW209  
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VTD: NW215  
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VTD: NW222  
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VTD: NW224  
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VTD: NW226  
VTD: NW227  
VTD: NW229  
VTD: NW231  
VTD: SF001  
VTD: SF002  
VTD: SF003  
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VTD: SF032

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**VTD: SF033**  
**VTD: SF034**  
**VTD: SF035**  
**VTD: SF036**  
**VTD: SF037**  
**VTD: SF038**  
**VTD: SF039**  
**VTD: SF040**  
**VTD: SF200**  
**VTD: SF204**  
**VTD: SF206**  
**VTD: SPL001**  
**VTD: SPL002**  
**VTD: SPL003**  
**VTD: SPL004**  
**VTD: SPL005**  
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**VTD: SPL021**  
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**VTD: SPL023**  
**VTD: SPL024**  
**VTD: SPL025**  
**VTD: SPL026**  
**VTD: SPL027**  
**VTD: SPL028**  
**VTD: SPL029**  
**VTD: SPL030**  
**VTD: SPL201**  
**VTD: SPL202**  
**VTD: SPL207**  
**VTD: SPL208**  
**VTD: UNV001**  
**VTD: UNV002**  
**VTD: UNV003**  
**VTD: UNV004**  
**VTD: UNV005**  
**VTD: UNV006**

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VTD: UNV007  
VTD: UNV008  
VTD: UNV009  
VTD: UNV010  
VTD: UNV011  
VTD: UNV012  
VTD: UNV013  
VTD: UNV014  
VTD: UNV015  
VTD: UNV016  
VTD: UNV017  
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VTD: UNV040  
VTD: UNV041  
VTD: UNV042  
VTD: UNV043  
VTD: UNV044  
VTD: UNV045  
VTD: UNV046  
VTD: UNV047  
VTD: UNV048  
VTD: UNV049  
VTD: UNV200  
VTD: UNV201  
VTD: UNV205  
VTD: UNV206  
VTD: UNV208

**128.452. SECOND CONGRESSIONAL DISTRICT (2010 CENSUS) — The second congressional district shall be composed of the following:**

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Jefferson MO County (part)

VTD: Arnold No. 1

VTD: Arnold No. 2 (part)

Block: 290997001101038

Block: 290997001101039

Block: 290997001101040

Block: 290997001101041

Block: 290997001101043

Block: 290997001101044

Block: 290997001101045

Block: 290997001101046

Block: 290997001101047

Block: 290997001101048

Block: 290997001101049

Block: 290997001101053

Block: 290997001103015

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Block: 290997001103018

Block: 290997001103019

Block: 290997001103020

Block: 290997001103021

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Block: 290997001103025

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Block: 290997001103027

Block: 290997001103030

Block: 290997001103031

Block: 290997001132000

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Block: 290997001132004

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Block: 290997001132006

Block: 290997001132029

Block: 290997001141000

Block: 290997001141001

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Block: 290997001141008

Block: 290997001141009

Block: 290997001141010

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Block: 290997001141012

Block: 290997001141013

Block: 290997001141018

Block: 290997001141092

Block: 290997001151000

Block: 290997001151001

Block: 290997001151002

Block: 290997001151003

Block: 290997001151004  
Block: 290997001151006  
Block: 290997001151007  
Block: 290997001151008  
Block: 290997001151009  
Block: 290997001151010  
Block: 290997001151011  
Block: 290997001151012  
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Block: 290997001172019  
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Block: 290997001172030

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Block: 290997001172031  
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Block: 290997001183012  
Block: 290997001184002  
Block: 290997001184009  
Block: 290997001184010  
Block: 290997001184011  
VTD: Arnold No. 3  
VTD: Arnold No. 4  
VTD: Maxville No. 1 (part)  
Block: 290997001131014  
VTD: Maxville No. 2 (part)  
Block: 290997001132002  
Block: 290997001132007  
Block: 290997001132008  
Block: 290997001132009  
Block: 290997001132014  
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Block: 290997001132016  
Block: 290997001132017  
Block: 290997001132018  
Block: 290997001132026  
Block: 290997001132027  
Block: 290997001132028  
Block: 290997001132030  
Block: 290997001172001  
Block: 290997001172054  
VTD: Meramec Heights  
VTD: Murphy No. 1 (part)  
Block: 290997002101014  
Block: 290997002101015  
Block: 290997002102000

Block: 290997002102016  
Block: 290997002102017  
Block: 290997002112000  
Block: 290997002112001  
Block: 290997002112006  
Block: 290997002112007  
Block: 290997002112008  
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Block: 290997003031031  
Block: 290997003032000  
Block: 290997003032001  
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Block: 290997003032004  
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Block: 290997003033021  
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Block: 290997003041035  
VTD: Murphy No. 2  
VTD: Murphy No. 3 (part)

Block: 290997002101023  
Block: 290997002101041  
Block: 290997002101042  
Block: 290997002101045  
Block: 290997002101046  
Block: 290997002101047  
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Block: 290997002112004  
Block: 290997002112005  
Block: 290997002112027  
Block: 290997002112028  
VTD: Romaine Creek  
VTD: Saline  
VTD: Springdale  
St. Charles MO County (part)  
VTD: 015-Washington (part)  
Block: 291833110011023  
Block: 291833110011024  
Block: 291833110011025  
Block: 291833110011031  
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Block: 291833110011037  
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Block: 291833110043018  
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Block: 291833112112041  
Block: 291833112112042  
Block: 291833112112052  
Block: 291833112112053  
Block: 291833112112056  
VTD: 016-Montclair  
VTD: 024-Wilshire  
VTD: 036-Sun Lake  
VTD: 047-Covilli  
VTD: 062-Adams (part)  
Block: 291833107001010  
Block: 291833107001011

Block: 291833107001012  
Block: 291833107001013  
Block: 291833107001014  
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Block: 291833107002038  
Block: 291833107002039  
Block: 291833107002040  
Block: 291833107002045  
Block: 291833107002046  
VTD: 080-Heritage  
VTD: 083-Woodcliff  
VTD: 084-Harvester  
VTD: 085-Sycamore  
VTD: 086-Arlington  
VTD: 091-Katy Trail  
VTD: 100-McClay  
VTD: 101-Graybridge  
VTD: 111-Woodstream  
VTD: 126-Meadow Valley (part)  
Block: 291833113222000  
Block: 291833113222001  
Block: 291833113222002  
Block: 291833113222003  
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Block: 291833113311010  
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Block: 291833113912010  
Block: 291833113912012  
Block: 291833113912013  
Block: 291833113912016  
VTD: 129-Parkwood  
VTD: 130-Lakes  
VTD: 139-Discovery  
VTD: 140-Laura Hill  
VTD: 143-All Saints  
VTD: 144-Fox  
VTD: 146-St. Jude  
VTD: 147-Cottleville  
VTD: 150-Timberwood  
VTD: 152-Woodglen  
VTD: 153-Aspen  
VTD: 154-Wheatfield  
VTD: 155-Green Forest (part)  
Block: 291833113121056  
Block: 291833113121057  
Block: 291833113121058  
Block: 291833113121059

Block: 291833113121060  
Block: 291833113121061  
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Block: 291833113121064  
Block: 291833113121065  
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Block: 291833113121067  
Block: 291833113121068  
Block: 291833113121069  
Block: 291833113121070  
Block: 291833113121073  
VTD: 170-Starbuck  
VTD: 196-Phoenix  
VTD: 203-Fieldcrest  
VTD: 206-Monticello  
VTD: 207-Carriage Hills  
VTD: 208-Twin Chimneys  
VTD: 211-Summerset  
VTD: 212-Canvas Cove  
VTD: 215-Coachman  
VTD: 218-DuVall  
VTD: 219-Westfield  
VTD: 220-Pitman  
VTD: 221-Weldon Spring  
VTD: 227-Whitmoor  
VTD: 228-Shoshone  
VTD: 230-Claybrook  
VTD: 231-Wolfrum  
VTD: 234-Windcastle  
St. Louis MO County (part)  
VTD: AP012  
VTD: AP017  
VTD: AP023  
VTD: AP026  
VTD: AP032  
VTD: AP037  
VTD: AP042  
VTD: BON001  
VTD: BON002  
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VTD: BON015  
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VTD: CC053  
VTD: CC054  
VTD: CC055  
VTD: CC056  
VTD: CC058 (part)  
Block: 291892150051010  
Block: 291892150051013  
Block: 291892150051014  
Block: 291892150052017  
Block: 291892150052018  
Block: 291892150052020  
Block: 291892150052021  
Block: 291892150052022  
Block: 291892150052023  
Block: 291892150052024  
Block: 291892150052025  
Block: 291892150052026  
Block: 291892150053021  
Block: 291892150053028  
Block: 291892150053029  
Block: 291892150053030  
Block: 291892150054012  
Block: 291892150054013  
Block: 291892153011000  
Block: 291892153011001  
Block: 291892153011002  
Block: 291892153011003  
Block: 291892155001016  
Block: 291892155001017  
Block: 291892156001048  
Block: 291892156001049

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**Block: 291892156001054**

**VTD: CC059**

**VTD: CC206**

**VTD: CC214**

**VTD: CC216**

**VTD: CC221**

**VTD: CC227**

**VTD: CHE001**

**VTD: CHE002**

**VTD: CHE003**

**VTD: CHE004**

**VTD: CHE005**

**VTD: CHE006**

**VTD: CHE007**

**VTD: CHE008**

**VTD: CHE009**

**VTD: CHE010**

**VTD: CHE011**

**VTD: CHE012**

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**VTD: CHE026**

**VTD: CHE027**

**VTD: CHE028**

**VTD: CHE029**

**VTD: CHE030**

**VTD: CHE031**

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**VTD: CHE036**

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VTD: CHE203  
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VTD: CHE209  
VTD: CHE212  
VTD: CHE214  
VTD: CHE215  
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VTD: CLA003  
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VTD: CLA006  
VTD: CLA007  
VTD: CLA008  
VTD: CLA009  
VTD: CLA010  
VTD: CLA011 (part)  
Block: 291892165001000  
Block: 291892165001001  
Block: 291892165001002  
Block: 291892165001003  
Block: 291892165001004  
Block: 291892165001005  
Block: 291892165001006  
Block: 291892165001007  
Block: 291892165001008  
Block: 291892165001009  
Block: 291892165001010  
Block: 291892165001011  
Block: 291892165001012  
Block: 291892165001013  
Block: 291892165001014  
Block: 291892165001015  
Block: 291892165001016  
Block: 291892165001017  
Block: 291892165001018  
Block: 291892165001019  
Block: 291892165002003  
Block: 291892165002004  
Block: 291892165002016  
Block: 291892165002017

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**Block: 291892165002018**

**VTD: CLA012**

**VTD: CLA013**

**VTD: CLA014**

**VTD: CLA015**

**VTD: CLA016**

**VTD: CLA017**

**VTD: CLA018**

**VTD: CLA019**

**VTD: CLA020**

**VTD: CLA024**

**VTD: CLA025**

**VTD: CLA026**

**VTD: CLA027**

**VTD: CLA028**

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**VTD: CLA055**

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**VTD: CLA058**

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**VTD: CLA200**

**VTD: CLA204**

**VTD: CLA206**

**VTD: CLA207**

**VTD: CLA208**

**VTD: CLA209**

**VTD: CLA212**

**VTD: CLA213**

VTD: CLA214  
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VTD: CON051  
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**VTD: LEM206**  
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**VTD: MER001**  
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VTD: MHT018 (part)  
Block: 291892132022000  
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Block: 291892132022005  
Block: 291892132022006  
Block: 291892132022007  
Block: 291892132022008  
Block: 291892132022009  
Block: 291892132022014  
Block: 291892132022015  
Block: 291892132022016  
Block: 291892132022017  
Block: 291892132022018  
VTD: MHT019  
VTD: MHT020  
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VTD: MHT022  
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VTD: MHT024  
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VTD: MHT026  
VTD: MHT027

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VTD: MHT028  
VTD: MHT029 (part)  
Block: 291892151423013  
Block: 291892151423014  
Block: 291892151423016  
VTD: MHT030  
VTD: MHT031  
VTD: MHT033  
VTD: MHT034  
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**VTD: MR068**

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**VTD: MR069**  
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**VTD: NW003**  
**VTD: NW011**  
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VTD: QUE001  
VTD: QUE002  
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VTD: TSF031  
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VTD: TSF208  
VTD: WH001  
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VTD: WH205  
VTD: WH208  
VTD: WH209  
VTD: WH212

**128.453. THIRD CONGRESSIONAL DISTRICT (2010 CENSUS) — The third congressional district shall be composed of the following:**

**Callaway MO County**

**Camden MO County (part)**

**VTD: Camdenton 1 (part)**

**Block: 290299502004068**

**Block: 290299502004069**

**Block: 290299502004071**

**Block: 290299502004072**

**Block: 290299502004073**

**Block: 290299502004074**

**Block: 290299502004076**

**Block: 290299502004079**

**Block: 290299502004085**

**Block: 290299502004086**

**Block: 290299502004087**

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**Block: 290299502004091**

**Block: 290299502004092**

**Block: 290299502004093**

**Block: 290299502004094**

**Block: 290299502004095**

**Block: 290299502004096**

**Block: 290299502004097**

Block: 290299505002016  
Block: 290299505002021  
Block: 290299505002039  
Block: 290299505002041  
Block: 290299505002048  
Block: 290299505003000  
Block: 290299505003002  
Block: 290299505003003  
Block: 290299505003004  
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Block: 290299505003010  
Block: 290299505003046  
Block: 290299506001001  
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Block: 290299506001077  
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Block: 290299506001080  
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Block: 290299506002204  
Block: 290299506002206  
Block: 290299506002207  
Block: 290299508005000  
Block: 290299508005001  
Block: 290299508005002  
Block: 290299508005062  
Block: 290299508005063  
Block: 290299508005066  
Block: 290299508005067  
Block: 290299508005068  
Block: 290299508005069  
Block: 290299509001016  
Block: 290299509001017  
Block: 290299509001021  
Block: 290299509001022  
Block: 290299509001118  
VTD: Camdenton 2  
VTD: Camdenton 3 (part)  
Block: 290299504001004  
Block: 290299504001005  
Block: 290299504001006  
Block: 290299504001007  
Block: 290299504001008  
Block: 290299504001009  
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Block: 290299504001062  
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Block: 290299504001069  
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Block: 290299504001080  
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Block: 290299505002052  
Block: 290299505002061  
Block: 290299505002062  
Block: 290299505002066  
VTD: Freedom  
VTD: Horseshoe Bend  
VTD: Linn Creek  
VTD: Osage Beach 1  
VTD: Osage Beach 2  
VTD: Osage Beach 3  
VTD: Sunrise Beach 1  
VTD: Sunrise Beach 2 (part)  
Block: 290299511002044  
Block: 290299512002032  
Block: 290299512002033  
Block: 290299512002042  
Block: 290299512002103  
Block: 290299512002114  
Block: 290299512002115  
Block: 290299512002116  
Block: 290299512002159  
Block: 290299512002171  
Block: 290299512002174  
VTD: Sunrise Beach 3 (part)  
Block: 290299511001159  
Block: 290299511002009  
Block: 290299511002010  
Block: 290299511002011  
Block: 290299511002012  
Block: 290299511002013  
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Block: 290299512002139

Block: 290299512002140

Block: 290299512002160

Block: 290299512002161

Block: 290299512002170

Block: 290299512002175

Block: 290299512002179

Block: 290299512002180

Cole MO County

Franklin MO County

Gasconade MO County

Jefferson MO County (part)

VTD: Antonia No. 1

VTD: Antonia No. 2

VTD: Arnold No. 2 (part)

Block: 290997001103017

Block: 290997001103022

Block: 290997001103023

Block: 290997001152032

Block: 290997001172037  
VTD: Barnhart No. 1  
VTD: Barnhart No. 2  
VTD: Byrnes Mill Ward 1  
VTD: Byrnes Mill Ward 2  
VTD: Byrnes Mill Ward 3  
VTD: Byrnesville  
VTD: Cedar Hill No. 1 (part)  
Block: 290997004011013  
Block: 290997004011015  
Block: 290997004011016  
Block: 290997004011017  
Block: 290997004011018  
Block: 290997004011019  
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Block: 290997011021009  
Block: 290997011021010  
Block: 290997011021012  
Block: 290997011021017  
Block: 290997011021018  
Block: 290997011021069  
VTD: Cedar Hill No. 2  
VTD: Crystal City (part)  
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VTD: Flamm City  
VTD: Herculaneum  
VTD: High Ridge 3-1  
VTD: High Ridge 3-2  
VTD: High Ridge No. 1

VTD: High Ridge No. 2  
VTD: Hoene Springs  
VTD: Horine  
VTD: House Springs 1-1  
VTD: House Springs 1-2  
VTD: House Springs No. 2  
VTD: Imperial No. 1  
VTD: Imperial No. 2  
VTD: Imperial No. 3  
VTD: Jefferson Heights  
VTD: Kimmswick  
VTD: Lake Tishomingo (part)  
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VTD: Maxville No. 1 (part)  
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VTD: McNamee R-1  
VTD: Meramec Valley/McNamee  
VTD: Miller  
VTD: Murphy No. 1 (part)  
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VTD: Murphy No. 3 (part)  
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VTD: Parkdale  
VTD: Pevely  
VTD: Pevely Outside No. 1  
VTD: Pevely Outside No. 2  
VTD: Riverview  
VTD: Rock Creek No. 1  
VTD: Rock Creek No. 2  
VTD: Rock Creek No. 3  
VTD: Rockwood-6/Hoene Springs  
VTD: Rockwood-6/McNamee  
VTD: Scotsdale  
VTD: Ware (part)  
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VTD: Windsor  
Lincoln MO County  
Maries MO County  
Miller MO County  
Montgomery MO County  
Osage MO County  
St. Charles MO County (part)  
VTD: 001-Kampville  
VTD: 004-Orchard Farm  
VTD: 005-Rivers  
VTD: 014-Lincoln  
VTD: 015-Washington (part)  
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VTD: 021-Truman  
VTD: 022-Cheshire  
VTD: 025-Shirewood

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VTD: 028-Treetop  
VTD: 031-Sibley  
VTD: 033-Canary  
VTD: 034-McNair  
VTD: 041-Government  
VTD: 043-Marina  
VTD: 045-Mamelle  
VTD: 051-St. Cletus  
VTD: 054-Coverdell  
VTD: 056-Edgewood  
VTD: 057-Hanover  
VTD: 062-Adams (part)  
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VTD: 063-St. Andrews  
VTD: 071-Fairways  
VTD: 102-Tanglewood  
VTD: 103-Cave Springs  
VTD: 104-Hi Point  
VTD: 106-Spencer  
VTD: 107-Oak Creek  
VTD: 113-Briarhill  
VTD: 121-St. Marys  
VTD: 122-Mid Rivers  
VTD: 124-Rabbit Run  
VTD: 126-Meadow Valley (part)  
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VTD: 128-Fairmount  
VTD: 131-Shadow Creek  
VTD: 132-Country Hill  
VTD: 145-Salt Lick  
VTD: 148-Winds  
VTD: 149-Sunny Hill  
VTD: 151-Glengate  
VTD: 155-Green Forest (part)  
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Block: 291833113122010  
Block: 291833113122011

Block: 291833113122012  
VTD: 156-Oaks  
VTD: 157-Patriot  
VTD: 159-Hillcrest  
VTD: 160-Harmony  
VTD: 161-Montbrook  
VTD: 162-Elks  
VTD: 163-Civic  
VTD: 165-St. Paul  
VTD: 166-Mount Hope  
VTD: 167-Morningside  
VTD: 169-Highgrove  
VTD: 173-Turtle Creek  
VTD: 181-Community  
VTD: 182-Evergreen  
VTD: 183-Foristell  
VTD: 184-Flint Hill  
VTD: 185-Josephville  
VTD: 186-Twin Oaks  
VTD: 187-Fairview  
VTD: 189-Pioneer  
VTD: 190-Peine  
VTD: 193-Delmar  
VTD: 194-Amber Meadows  
VTD: 197-Feise  
VTD: 198-Cedar  
VTD: 199-Regatta Bay  
VTD: 200-Normandy  
VTD: 202-Ridgepoint  
VTD: 205-Bayfield  
VTD: 210-Freymuth  
VTD: 213-Bryan  
VTD: 214-Hawk Ridge  
VTD: 217-Keystone  
VTD: 222-New Melle  
VTD: 225-Augusta  
VTD: 226-Hopewell  
VTD: 229-Callaway  
Warren MO County

**128.454. FOURTH CONGRESSIONAL DISTRICT (2010 CENSUS)** — The fourth congressional district shall be composed of the following:

Audrain MO County (part)  
VTD: Benton City (part)  
Block: 290079502004009  
Block: 290079502004014  
Block: 290079502004015  
Block: 290079502004016  
Block: 290079502004017  
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VTD: Community  
VTD: Friendship  
VTD: Martinsburg (part)  
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VTD: Mexico No. 1  
VTD: Mexico No. 2  
VTD: Mexico No. 3  
VTD: Mexico No. 4  
VTD: Mexico No. 5  
VTD: Mexico No. 6  
VTD: South Fork

VTD: Thompson  
VTD: Wilson/Salt River  
Barton MO County  
Bates MO County  
Benton MO County  
Boone MO County  
Camden MO County (part)  
VTD: Barnumton  
VTD: Camdenton 1 (part)  
Block: 290299505002017  
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VTD: Camdenton 3 (part)  
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VTD: Climax Springs  
VTD: Decaturville  
VTD: Greenview  
VTD: Ha Ha Tonka  
VTD: Hillhouse  
VTD: Macks Creek  
VTD: Montreal  
VTD: Roach  
VTD: Stoutland  
VTD: Sunny Slope  
VTD: Sunrise Beach 2 (part)  
Block: 290299512001000  
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VTD: Sunrise Beach 3 (part)  
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**Block: 290299512002137**  
**VTD: Wilson Bend**  
**Cass MO County**  
**Cedar MO County**  
**Cooper MO County**  
**Dade MO County**  
**Dallas MO County**  
**Henry MO County**  
**Hickory MO County**  
**Howard MO County**  
**Johnson MO County**  
**Laclede MO County**  
**Moniteau MO County**  
**Morgan MO County**  
**Pettis MO County**  
**Pulaski MO County**  
**Randolph MO County**  
**St. Clair MO County**  
**Vernon MO County**  
**Webster MO County (part)**  
**VTD: Diggins (part)**  
**Block: 292254703021043**  
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Block: 292254704022006  
Block: 292254704022007  
Block: 292254704022008  
Block: 292254704022009  
Block: 292254704022010  
Block: 292254704022011  
Block: 292254704022012  
Block: 292254704022013  
Block: 292254704022014  
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Block: 292254704022037  
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Block: 292254704022040  
Block: 292254704022041

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Block: 292254704022042  
Block: 292254704022043  
Block: 292254704022044  
Block: 292254704022045  
Block: 292254704022046  
Block: 292254704022047  
Block: 292254704022052  
Block: 292254704022053  
Block: 292254704022054  
Block: 292254704022073  
Block: 292254704022134  
Block: 292254704022135  
Block: 292254704022239  
Block: 292254704022240  
Block: 292254704022241  
Block: 292254704022242  
Block: 292254704022243  
Block: 292254704022244  
Block: 292254704022245  
Block: 292254704022246  
Block: 292254704022249  
Block: 292254704022250  
Block: 292254704022251  
VTD: East Ozark  
VTD: Finley (part)  
Block: 292254704011022  
Block: 292254704011023  
Block: 292254704011024  
Block: 292254704011025  
Block: 292254704011028  
Block: 292254704011029  
Block: 292254704011030  
Block: 292254704011031  
Block: 292254704011032  
Block: 292254704011033  
Block: 292254704011034  
Block: 292254704011036  
Block: 292254704011037  
Block: 292254704011038  
Block: 292254704011039  
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Block: 292254704011066  
Block: 292254704011067  
Block: 292254704011069  
Block: 292254704011070  
Block: 292254704011071  
Block: 292254704011119  
Block: 292254704011145  
Block: 292254704011146  
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Block: 292254704011173  
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Block: 292254704011177

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Block: 292254704011178  
Block: 292254704011179  
Block: 292254704011180  
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Block: 292254704011182  
Block: 292254704011183  
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Block: 292254704012061  
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Block: 292254704012064  
Block: 292254704012065

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Block: 292254704012066  
Block: 292254704012067  
Block: 292254704012068  
Block: 292254704012069  
Block: 292254704012070  
Block: 292254704012071  
Block: 292254704012072  
VTD: Grant  
VTD: Hazelwood  
VTD: High Prairie  
VTD: Jackson  
VTD: Marshfield  
VTD: Union/Niangua  
VTD: Washington  
VTD: West Ozark

**128.455. FIFTH CONGRESSIONAL DISTRICT (2010 CENSUS) — The fifth congressional district shall be composed of the following:**

Clay MO County (part)  
VTD: Chou 8  
VTD: Gal 1  
VTD: Gal 10  
VTD: Gal 11  
VTD: Gal 12  
VTD: Gal 13  
VTD: Gal 14  
VTD: Gal 15  
VTD: Gal 16  
VTD: Gal 18  
VTD: Gal 2  
VTD: Gal 3  
VTD: Gal 4  
VTD: Gal 5  
VTD: Gal 6  
VTD: Gal 7  
VTD: Gal 9  
VTD: KC 21-11  
VTD: KC 21-12 (part)  
Block: 290470212062033  
Block: 290470212062034  
Block: 290470212062035  
Block: 290470212062036  
Block: 290470212062037  
Block: 290470212062038  
Block: 290470212062039  
Block: 290470212062040  
Block: 290470212062041  
Block: 290470212062042  
Block: 290470212062043  
Block: 290470212063014  
Block: 290470212063015

Block: 290470212063016  
Block: 290470212063017  
Block: 290470212063018  
Block: 290470212063019  
Block: 290470212063020  
Block: 290470212063021  
Block: 290470212063024  
Block: 290470212063025  
Block: 290470212063026  
Block: 290470212063027  
VTD: KC 21-14  
VTD: KC 21-18  
VTD: KC 21-19  
VTD: KC 21-20  
VTD: KC 21-21  
VTD: KC 21-22  
VTD: KC 21-23  
VTD: KC 21-24  
VTD: KC 21-25 (part)  
Block: 290470211011003  
Block: 290470211011007  
VTD: KC 21-3  
VTD: KC 21-4  
VTD: KC 21-5  
VTD: KC 21-6  
VTD: KC 21-7  
VTD: KC 21-8  
VTD: KC 21-9  
Jackson MO County (part)  
VTD: Blue Sub 1 No. 1  
VTD: Blue Sub 1 No. 10  
VTD: Blue Sub 1 No. 11 & 11A  
VTD: Blue Sub 1 No. 12  
VTD: Blue Sub 1 No. 13  
VTD: Blue Sub 1 No. 14  
VTD: Blue Sub 1 No. 18  
VTD: Blue Sub 1 No. 2  
VTD: Blue Sub 1 No. 4 & 4A  
VTD: Blue Sub 1 No. 5  
VTD: Blue Sub 1 No. 6 & 6B  
VTD: Blue Sub 1 No. 6A  
VTD: Blue Sub 1 No. 7  
VTD: Blue Sub 1 No. 8,15,& 16  
VTD: Blue Sub 1 No. 9  
VTD: Blue Sub 2 No. 1  
VTD: Blue Sub 2 No. 10  
VTD: Blue Sub 2 No. 2  
VTD: Blue Sub 2 No. 3  
VTD: Blue Sub 2 No. 3A  
VTD: Blue Sub 2 No. 4  
VTD: Blue Sub 2 No. 5

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**VTD: Blue Sub 2 No. 6**  
**VTD: Blue Sub 2 No. 7**  
**VTD: Blue Sub 2 No. 8**  
**VTD: Blue Sub 2 No. 9**  
**VTD: Blue Sub 3 No. 1**  
**VTD: Blue Sub 3 No. 11**  
**VTD: Blue Sub 3 No. 12 & 13 (part)**  
**Block: 290950150001058**  
**Block: 290950150001065**  
**Block: 290950150001066**  
**VTD: Blue Sub 3 No. 14,15,15N,17N,& 18N**  
**VTD: Blue Sub 3 No. 15A**  
**VTD: Blue Sub 3 No. 16 & 16A**  
**VTD: Blue Sub 3 No. 2**  
**VTD: Blue Sub 3 No. 3**  
**VTD: Blue Sub 3 No. 4**  
**VTD: Blue Sub 3 No. 5**  
**VTD: Blue Sub 3 No. 5A**  
**VTD: Blue Sub 3 No. 9**  
**VTD: Blue Sub 4 No. 1**  
**VTD: Blue Sub 4 No. 10**  
**VTD: Blue Sub 4 No. 11**  
**VTD: Blue Sub 4 No. 12**  
**VTD: Blue Sub 4 No. 2**  
**VTD: Blue Sub 4 No. 3**  
**VTD: Blue Sub 4 No. 4**  
**VTD: Blue Sub 4 No. 5**  
**VTD: Blue Sub 4 No. 6**  
**VTD: Blue Sub 4 No. 7**  
**VTD: Blue Sub 4 No. 8**  
**VTD: Blue Sub 4 No. 9**  
**VTD: Blue Sub 5 No. 1**  
**VTD: Blue Sub 5 No. 11**  
**VTD: Blue Sub 5 No. 13**  
**VTD: Blue Sub 5 No. 14**  
**VTD: Blue Sub 5 No. 15**  
**VTD: Blue Sub 5 No. 2**  
**VTD: Blue Sub 5 No. 3**  
**VTD: Blue Sub 5 No. 4**  
**VTD: Blue Sub 5 No. 5 & 12**  
**VTD: Blue Sub 5 No. 6**  
**VTD: Blue Sub 5 No. 7**  
**VTD: Blue Sub 5 No. 8**  
**VTD: Blue Sub 5 No. 9**  
**VTD: Blue Sub 6 No. 1**  
**VTD: Blue Sub 6 No. 10**  
**VTD: Blue Sub 6 No. 11**  
**VTD: Blue Sub 6 No. 12**  
**VTD: Blue Sub 6 No. 2**  
**VTD: Blue Sub 6 No. 3**  
**VTD: Blue Sub 6 No. 4**

**VTD: Blue Sub 6 No. 5**  
**VTD: Blue Sub 6 No. 5A**  
**VTD: Blue Sub 6 No. 6**  
**VTD: Blue Sub 6 No. 6A**  
**VTD: Blue Sub 6 No. 7 & 7N**  
**VTD: Blue Sub 6 No. 8**  
**VTD: Blue Sub 6 No. 8A**  
**VTD: Blue Sub 6 No. 9**  
**VTD: Blue Sub 7 No. 1**  
**VTD: Blue Sub 7 No. 10**  
**VTD: Blue Sub 7 No. 11**  
**VTD: Blue Sub 7 No. 12**  
**VTD: Blue Sub 7 No. 13**  
**VTD: Blue Sub 7 No. 14**  
**VTD: Blue Sub 7 No. 2**  
**VTD: Blue Sub 7 No. 2A**  
**VTD: Blue Sub 7 No. 3**  
**VTD: Blue Sub 7 No. 4**  
**VTD: Blue Sub 7 No. 5 & 5A**  
**VTD: Blue Sub 7 No. 6**  
**VTD: Blue Sub 7 No. 7**  
**VTD: Blue Sub 7 No. 8**  
**VTD: Blue Sub 7 No. 9**  
**VTD: Blue Sub 8 No. 1**  
**VTD: Blue Sub 8 No. 10 & 10A**  
**VTD: Blue Sub 8 No. 11**  
**VTD: Blue Sub 8 No. 12,12A,& 12B (part)**  
**Block: 290950145012000**  
**Block: 290950145012001**  
**Block: 290950145012002**  
**Block: 290950145012003**  
**Block: 290950145012004**  
**Block: 290950145012005**  
**Block: 290950145012006**  
**Block: 290950145012007**  
**Block: 290950145012008**  
**Block: 290950145012009**  
**Block: 290950145012010**  
**Block: 290950145012011**  
**Block: 290950145012012**  
**Block: 290950145012013**  
**Block: 290950145012014**  
**Block: 290950145012015**  
**Block: 290950145012018**  
**Block: 290950145012019**  
**Block: 290950145012020**  
**Block: 290950145012021**  
**Block: 290950145012034**  
**Block: 290950145012035**  
**Block: 290950145022030**  
**Block: 290950145022031**

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Block: 290950146032029  
Block: 290950146043026  
Block: 290950146043027  
VTD: Blue Sub 8 No. 13 & 13N (part)  
Block: 290950145022003  
Block: 290950145022012  
Block: 290950145022013  
Block: 290950145022014  
Block: 290950145022015  
Block: 290950145022016  
Block: 290950145022021  
Block: 290950145022022  
Block: 290950145022023  
Block: 290950145022024  
Block: 290950145022025  
Block: 290950147011053  
Block: 290950147011055  
VTD: Blue Sub 8 No. 2  
VTD: Blue Sub 8 No. 2A  
VTD: Blue Sub 8 No. 3  
VTD: Blue Sub 8 No. 5 & 5A  
VTD: Blue Sub 8 No. 6  
VTD: Blue Sub 8 No. 7  
VTD: Blue Sub 8 No. 8  
VTD: Blue Sub 8 No. 9  
VTD: Blue Sub 8 No. 9A  
VTD: Brooking No. 1  
VTD: Brooking No. 10  
VTD: Brooking No. 11  
VTD: Brooking No. 12  
VTD: Brooking No. 13  
VTD: Brooking No. 14  
VTD: Brooking No. 15  
VTD: Brooking No. 16  
VTD: Brooking No. 17  
VTD: Brooking No. 18  
VTD: Brooking No. 19  
VTD: Brooking No. 2 & 2A  
VTD: Brooking No. 20  
VTD: Brooking No. 21  
VTD: Brooking No. 22 & 22A  
VTD: Brooking No. 23  
VTD: Brooking No. 24  
VTD: Brooking No. 25  
VTD: Brooking No. 26  
VTD: Brooking No. 27  
VTD: Brooking No. 28  
VTD: Brooking No. 3  
VTD: Brooking No. 4  
VTD: Brooking No. 5  
VTD: Brooking No. 6

VTD: Brooking No. 7  
VTD: Brooking No. 8  
VTD: Brooking No. 9  
VTD: Brooking No. 9A  
VTD: Fort Osage No. 1,1A,2,& 3 (part)  
Block: 290950147021002  
Block: 290950148041000  
Block: 290950148041003  
Block: 290950148041004  
Block: 290950177003027  
Block: 290950177003028  
Block: 290950177003063  
Block: 290950177003064  
Block: 290950177003071  
Block: 290950177003078  
VTD: KC WD1 PCT101  
VTD: KC WD1 PCT102  
VTD: KC WD1 PCT103  
VTD: KC WD1 PCT104  
VTD: KC WD1 PCT105  
VTD: KC WD1 PCT106  
VTD: KC WD1 PCT107  
VTD: KC WD1 PCT108  
VTD: KC WD1 PCT109  
VTD: KC WD1 PCT110  
VTD: KC WD1 PCT111  
VTD: KC WD1 PCT511  
VTD: KC WD10 PCT1001  
VTD: KC WD10 PCT1002  
VTD: KC WD10 PCT1003  
VTD: KC WD10 PCT1004  
VTD: KC WD10 PCT1005  
VTD: KC WD10 PCT1006  
VTD: KC WD10 PCT1008  
VTD: KC WD10 PCT1009  
VTD: KC WD10 PCT1010  
VTD: KC WD10 PCT1011  
VTD: KC WD10 PCT1012  
VTD: KC WD10 PCT1013  
VTD: KC WD10 PCT1014  
VTD: KC WD10 PCT1015  
VTD: KC WD10 PCT2201  
VTD: KC WD11 PCT1101  
VTD: KC WD11 PCT1102  
VTD: KC WD11 PCT1103  
VTD: KC WD11 PCT1104  
VTD: KC WD11 PCT1105  
VTD: KC WD11 PCT1106  
VTD: KC WD11 PCT1107  
VTD: KC WD11 PCT1108  
VTD: KC WD11 PCT1109

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VTD: KC WD11 PCT1110  
VTD: KC WD11 PCT1209  
VTD: KC WD12 PCT1201  
VTD: KC WD12 PCT1202  
VTD: KC WD12 PCT1203  
VTD: KC WD12 PCT1204  
VTD: KC WD12 PCT1205  
VTD: KC WD12 PCT1206  
VTD: KC WD12 PCT1207  
VTD: KC WD12 PCT1208  
VTD: KC WD12 PCT1210  
VTD: KC WD12 PCT1305  
VTD: KC WD12 PCT1306  
VTD: KC WD12 PCT1307  
VTD: KC WD12 PCT1308  
VTD: KC WD12 PCT1309  
VTD: KC WD12 PCT1310  
VTD: KC WD13 PCT1301  
VTD: KC WD13 PCT1302  
VTD: KC WD13 PCT1303  
VTD: KC WD13 PCT1304  
VTD: KC WD13 PCT1501  
VTD: KC WD13 PCT1502  
VTD: KC WD14 PCT1401  
VTD: KC WD14 PCT1402  
VTD: KC WD14 PCT1403  
VTD: KC WD14 PCT1404  
VTD: KC WD14 PCT1405  
VTD: KC WD14 PCT1406  
VTD: KC WD14 PCT1407  
VTD: KC WD14 PCT1408  
VTD: KC WD14 PCT1409  
VTD: KC WD14 PCT1410  
VTD: KC WD14 PCT1411  
VTD: KC WD14 PCT1412  
VTD: KC WD14 PCT1413  
VTD: KC WD15 PCT1414  
VTD: KC WD15 PCT1503  
VTD: KC WD15 PCT1504  
VTD: KC WD15 PCT1505  
VTD: KC WD15 PCT1506  
VTD: KC WD15 PCT1507  
VTD: KC WD15 PCT1508  
VTD: KC WD15 PCT1509  
VTD: KC WD15 PCT1512  
VTD: KC WD15 PCT1513  
VTD: KC WD15 PCT1514  
VTD: KC WD15 PCT311  
VTD: KC WD15 PCT314  
VTD: KC WD15 PCT718  
VTD: KC WD16 PCT1511

VTD: KC WD16 PCT1601  
VTD: KC WD16 PCT1602  
VTD: KC WD16 PCT1603  
VTD: KC WD16 PCT1604  
VTD: KC WD16 PCT1605  
VTD: KC WD16 PCT1607  
VTD: KC WD16 PCT1608  
VTD: KC WD16 PCT1609  
VTD: KC WD16 PCT1610  
VTD: KC WD16 PCT1611  
VTD: KC WD16 PCT1612  
VTD: KC WD16 PCT1613  
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VTD: KC WD16 PCT1616  
VTD: KC WD16 PCT717  
VTD: KC WD17 PCT1606  
VTD: KC WD17 PCT1617  
VTD: KC WD17 PCT1618  
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VTD: KC WD17 PCT1702  
VTD: KC WD17 PCT1703  
VTD: KC WD17 PCT1704  
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VTD: KC WD17 PCT1708  
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VTD: KC WD18 PCT1805  
VTD: KC WD18 PCT1806  
VTD: KC WD18 PCT1807  
VTD: KC WD18 PCT1808  
VTD: KC WD18 PCT1809  
VTD: KC WD18 PCT1810  
VTD: KC WD18 PCT1812  
VTD: KC WD18 PCT1813  
VTD: KC WD18 PCT1816  
VTD: KC WD19 PCT1709  
VTD: KC WD19 PCT1710  
VTD: KC WD19 PCT1815  
VTD: KC WD19 PCT1817  
VTD: KC WD19 PCT1903  
VTD: KC WD19 PCT1905  
VTD: KC WD19 PCT1906  
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VTD: KC WD19 PCT1908

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VTD: KC WD19 PCT1909  
VTD: KC WD19 PCT1910  
VTD: KC WD19 PCT1911  
VTD: KC WD19 PCT1912  
VTD: KC WD19 PCT1913  
VTD: KC WD19 PCT1914  
VTD: KC WD19 PCT1916  
VTD: KC WD19 PCT1917  
VTD: KC WD19 PCT1918  
VTD: KC WD19 PCT1919  
VTD: KC WD19 PCT903  
VTD: KC WD19 PCT912  
VTD: KC WD2 PCT201  
VTD: KC WD2 PCT202  
VTD: KC WD2 PCT203  
VTD: KC WD2 PCT204  
VTD: KC WD2 PCT205  
VTD: KC WD2 PCT206  
VTD: KC WD2 PCT207  
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VTD: KC WD2 PCT209  
VTD: KC WD2 PCT210  
VTD: KC WD2 PCT211  
VTD: KC WD2 PCT212  
VTD: KC WD2 PCT213  
VTD: KC WD2 PCT214  
VTD: KC WD2 PCT215  
VTD: KC WD2 PCT216  
VTD: KC WD20 PCT1901  
VTD: KC WD20 PCT2002  
VTD: KC WD20 PCT2003  
VTD: KC WD20 PCT2004  
VTD: KC WD20 PCT2005  
VTD: KC WD20 PCT2006  
VTD: KC WD20 PCT2007  
VTD: KC WD20 PCT2008  
VTD: KC WD20 PCT2009  
VTD: KC WD20 PCT2010  
VTD: KC WD22 PCT1007  
VTD: KC WD22 PCT2202  
VTD: KC WD22 PCT2203  
VTD: KC WD22 PCT2204  
VTD: KC WD22 PCT2205  
VTD: KC WD22 PCT2206  
VTD: KC WD22 PCT2207  
VTD: KC WD22 PCT2208  
VTD: KC WD22 PCT2209  
VTD: KC WD22 PCT2210  
VTD: KC WD22 PCT2211  
VTD: KC WD22 PCT2212  
VTD: KC WD22 PCT2213

VTD: KC WD23 PCT2301  
VTD: KC WD23 PCT2302  
VTD: KC WD23 PCT2303  
VTD: KC WD23 PCT2304  
VTD: KC WD23 PCT2305  
VTD: KC WD23 PCT2306  
VTD: KC WD23 PCT2307  
VTD: KC WD23 PCT2308  
VTD: KC WD23 PCT2309  
VTD: KC WD23 PCT2310  
VTD: KC WD23 PCT2311  
VTD: KC WD23 PCT2312  
VTD: KC WD23 PCT2313  
VTD: KC WD23 PCT2314  
VTD: KC WD23 PCT2315  
VTD: KC WD23 PCT2316  
VTD: KC WD23 PCT2317  
VTD: KC WD23 PCT2318  
VTD: KC WD24 PCT2401  
VTD: KC WD24 PCT2402  
VTD: KC WD24 PCT2403  
VTD: KC WD24 PCT2404  
VTD: KC WD24 PCT2405  
VTD: KC WD24 PCT2406  
VTD: KC WD24 PCT2407  
VTD: KC WD24 PCT2408  
VTD: KC WD24 PCT2409  
VTD: KC WD24 PCT2410  
VTD: KC WD24 PCT2412  
VTD: KC WD24 PCT2413  
VTD: KC WD24 PCT2414  
VTD: KC WD24 PCT2415  
VTD: KC WD24 PCT2416  
VTD: KC WD24 PCT2417  
VTD: KC WD24 PCT2418  
VTD: KC WD24 PCT2419  
VTD: KC WD24 PCT2420  
VTD: KC WD24 PCT2421  
VTD: KC WD24 PCT2422  
VTD: KC WD24 PCT2423  
VTD: KC WD24 PCT2424  
VTD: KC WD24 PCT2425  
VTD: KC WD24 PCT2426  
VTD: KC WD24 PCT2427  
VTD: KC WD24 PCT2428  
VTD: KC WD24 PCT2429  
VTD: KC WD24 PCT2430  
VTD: KC WD24 PCT2431  
VTD: KC WD24 PCT2432  
VTD: KC WD24 PCT2601  
VTD: KC WD25 PCT2001

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VTD: KC WD25 PCT2501  
VTD: KC WD25 PCT2503  
VTD: KC WD25 PCT2504  
VTD: KC WD25 PCT2505  
VTD: KC WD25 PCT2506  
VTD: KC WD25 PCT2507  
VTD: KC WD25 PCT2508  
VTD: KC WD25 PCT2509  
VTD: KC WD25 PCT2510  
VTD: KC WD25 PCT2511  
VTD: KC WD25 PCT2602  
VTD: KC WD26 PCT1711  
VTD: KC WD26 PCT1902  
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VTD: KC WD26 PCT2609  
VTD: KC WD26 PCT2610  
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VTD: KC WD26 PCT2612  
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VTD: KC WD4 PCT409  
VTD: KC WD5 PCT410  
VTD: KC WD5 PCT502  
VTD: KC WD5 PCT503  
VTD: KC WD5 PCT504  
VTD: KC WD5 PCT505

VTD: KC WD5 PCT506  
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VTD: KC WD5 PCT510  
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VTD: KC WD6 PCT610  
VTD: KC WD6 PCT611  
VTD: KC WD6 PCT612  
VTD: KC WD6 PCT801  
VTD: KC WD7 PCT701  
VTD: KC WD7 PCT702  
VTD: KC WD7 PCT703  
VTD: KC WD7 PCT704  
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VTD: KC WD7 PCT706  
VTD: KC WD7 PCT707  
VTD: KC WD7 PCT708  
VTD: KC WD7 PCT709  
VTD: KC WD7 PCT710  
VTD: KC WD7 PCT711  
VTD: KC WD7 PCT712  
VTD: KC WD7 PCT713  
VTD: KC WD7 PCT714  
VTD: KC WD7 PCT715  
VTD: KC WD7 PCT719  
VTD: KC WD8 PCT613  
VTD: KC WD8 PCT802  
VTD: KC WD8 PCT803  
VTD: KC WD8 PCT804  
VTD: KC WD8 PCT805  
VTD: KC WD8 PCT806  
VTD: KC WD8 PCT807  
VTD: KC WD8 PCT808  
VTD: KC WD8 PCT809  
VTD: KC WD8 PCT810  
VTD: KC WD8 PCT811  
VTD: KC WD8 PCT813  
VTD: KC WD9 PCT1904  
VTD: KC WD9 PCT812  
VTD: KC WD9 PCT901  
VTD: KC WD9 PCT902

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**VTD: KC WD9 PCT904**  
**VTD: KC WD9 PCT905**  
**VTD: KC WD9 PCT906**  
**VTD: KC WD9 PCT907**  
**VTD: KC WD9 PCT908**  
**VTD: KC WD9 PCT909**  
**VTD: KC WD9 PCT910**  
**VTD: KC WD9 PCT911**  
**VTD: Prairie No. 1**  
**VTD: Prairie No. 10,11,& 12**  
**VTD: Prairie No. 13**  
**VTD: Prairie No. 13A**  
**VTD: Prairie No. 14**  
**VTD: Prairie No. 15**  
**VTD: Prairie No. 16**  
**VTD: Prairie No. 17**  
**VTD: Prairie No. 18 & 19**  
**VTD: Prairie No. 2**  
**VTD: Prairie No. 20**  
**VTD: Prairie No. 20A & 20B**  
**VTD: Prairie No. 20C**  
**VTD: Prairie No. 21**  
**VTD: Prairie No. 22**  
**VTD: Prairie No. 23**  
**VTD: Prairie No. 24,24B,25A,68**  
**VTD: Prairie No. 24A**  
**VTD: Prairie No. 24C**  
**VTD: Prairie No. 25**  
**VTD: Prairie No. 26,27,28,& 78**  
**VTD: Prairie No. 29 & 30C (part)**  
**Block: 290950142031005**  
**Block: 290950142032005**  
**Block: 290950142032015**  
**Block: 290950142032016**  
**Block: 290950142032018**  
**Block: 290950142032019**  
**Block: 290950142032023**  
**VTD: Prairie No. 3 (part)**  
**Block: 290950137031011**  
**Block: 290950137031012**  
**Block: 290950137031015**  
**Block: 290950137031016**  
**Block: 290950137031018**  
**Block: 290950137031019**  
**Block: 290950137031020**  
**Block: 290950137031021**  
**Block: 290950137031022**  
**Block: 290950137031023**  
**Block: 290950137031024**  
**Block: 290950137031025**  
**Block: 290950137031026**

Block: 290950137031027  
Block: 290950137031028  
Block: 290950137031029  
Block: 290950137031030  
Block: 290950137031031  
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Block: 290950137031036  
Block: 290950137031037  
Block: 290950137031038  
Block: 290950137031039  
Block: 290950137031040  
Block: 290950137031041  
Block: 290950137031042  
Block: 290950137031043  
Block: 290950137031044  
Block: 290950137031045  
Block: 290950137031046  
Block: 290950137031047  
Block: 290950137031050  
Block: 290950137031051  
Block: 290950137031054  
Block: 290950137032019  
Block: 290950137033052  
Block: 290950137033053  
Block: 290950137033056  
Block: 290950137033057  
Block: 290950137033058  
Block: 290950137033059  
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Block: 290950137033064  
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Block: 290950137033067  
Block: 290950137033068  
Block: 290950137033069  
Block: 290950137033070  
Block: 290950137033071  
Block: 290950137033072  
Block: 290950137033073  
Block: 290950138021027  
VTD: Prairie No. 30  
VTD: Prairie No. 30A (part)  
Block: 290950142031014  
Block: 290950142031015  
Block: 290950142031016  
Block: 290950142031018  
Block: 290950145021004

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Block: 290950145021027  
VTD: Prairie No. 31  
VTD: Prairie No. 33  
VTD: Prairie No. 34  
VTD: Prairie No. 35  
VTD: Prairie No. 37  
VTD: Prairie No. 37A  
VTD: Prairie No. 38  
VTD: Prairie No. 39  
VTD: Prairie No. 39A  
VTD: Prairie No. 40  
VTD: Prairie No. 40A & 44A (part)  
Block: 290950179003002  
VTD: Prairie No. 43 & 79 (part)  
Block: 290950142042033  
Block: 290950142042034  
Block: 290950142042051  
Block: 290950142042052  
Block: 290950142042053  
Block: 290950142042054  
Block: 290950142042055  
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Block: 290950142043030  
Block: 290950142043037  
Block: 290950142043038  
Block: 290950142043039  
Block: 290950142043040  
Block: 290950142043049  
Block: 290950142043051  
Block: 290950142043052  
Block: 290950142043054  
Block: 290950142043055  
Block: 290950142043056  
Block: 290950143003027  
Block: 290950143003028  
Block: 290950179003004  
VTD: Prairie No. 45  
VTD: Prairie No. 50A (part)  
Block: 290950139013031  
Block: 290950139013032  
Block: 290950139013033  
Block: 290950139013034  
Block: 290950139013035  
Block: 290950139013036  
Block: 290950139013037  
VTD: Prairie No. 50C,58,58A,58B,58C,58D,58E,58F,& 76 (part)  
Block: 290950139011066  
Block: 290950139011067  
Block: 290950139012058

Block: 290950139012066  
Block: 290950139012068  
Block: 290950139012069  
Block: 290950139012072  
Block: 290950139012073  
Block: 290950139012074  
Block: 290950139012075  
Block: 290950139012076  
Block: 290950139012149  
Block: 290950139012150  
Block: 290950139012151  
Block: 290950139012152  
Block: 290950139013055  
VTD: Prairie No. 51  
VTD: Prairie No. 51A  
VTD: Prairie No. 51B,51N,63,63A,63C,65,65A,65N,77,77A,77B,& 77N  
VTD: Prairie No. 52  
VTD: Prairie No. 52A  
VTD: Prairie No. 53  
VTD: Prairie No. 55 & 56 (part)  
Block: 290950141111038  
Block: 290950141111039  
Block: 290950141111040  
Block: 290950141111041  
Block: 290950141111052  
VTD: Prairie No. 57,72,73,73A,73B,73C,73N,73W,& 73X (part)  
Block: 290950141111030  
Block: 290950141111031  
Block: 290950141111032  
Block: 290950141111033  
Block: 290950141111034  
Block: 290950141111035  
Block: 290950141111036  
VTD: Prairie No. 59,59N,60,61,75B,75D,75E,75F,& 75G (part)  
Block: 290950139011031  
Block: 290950139011032  
Block: 290950139011033  
Block: 290950139011034  
Block: 290950139011035  
Block: 290950139011036  
Block: 290950139011042  
Block: 290950141121020  
Block: 290950141121021  
Block: 290950141121022  
Block: 290950141121023  
Block: 290950141121024  
Block: 290950141121025  
Block: 290950141121026  
Block: 290950141121027  
Block: 290950141121028  
Block: 290950141121029

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Block: 290950141121030  
Block: 290950141121042  
Block: 290950141121043  
Block: 290950141121044  
Block: 290950141121045  
Block: 290950141121047  
Block: 290950141121048  
Block: 290950141121056  
Block: 290950141121057  
Block: 290950141121059  
VTD: Prairie No. 62,71,74,75,75A,75C,& 75N (part)  
Block: 290950139011045  
Block: 290950139011065  
Block: 290950141121046  
Block: 290950141121058  
VTD: Prairie No. 8 & 8B  
VTD: Prairie No. 8A  
VTD: Prairie No. 9  
VTD: Sni-A-Bar No. 1,1B,& 1C (part)  
Block: 290950145022002  
Block: 290950145022010  
Block: 290950145022011  
Block: 290950145022020  
Block: 290950145022044  
VTD: Sni-A-Bar No. 14,75N,& 75X (part)  
Block: 290950141011006  
Block: 290950141011007  
Block: 290950141011008  
Block: 290950141011009  
Block: 290950141011010  
Block: 290950141011011  
Block: 290950141011012  
Block: 290950141011013  
Block: 290950141011014  
Block: 290950141011030  
Block: 290950141011032  
Block: 290950141011033  
Block: 290950141011034  
Block: 290950141011035  
VTD: Sni-A-Bar No. 14A & 75A  
VTD: Sni-A-Bar No. 15 & 15A  
VTD: Sni-A-Bar No. 15B  
VTD: Sni-A-Bar No. 16,83,& 93  
VTD: Sni-A-Bar No. 19 (part)  
Block: 290950141081001  
Block: 290950141081002  
Block: 290950141081003  
Block: 290950141081004  
Block: 290950141081005  
Block: 290950141081006  
Block: 290950141081007

Block: 290950141081008  
Block: 290950141081009  
Block: 290950141081010  
Block: 290950141081011  
VTD: Sni-A-Bar No. 20 & 70A  
VTD: Sni-A-Bar No. 21,21B,70,& 71 (part)  
Block: 290950141082000  
Block: 290950141082001  
Block: 290950141082002  
Block: 290950141082003  
Block: 290950141082004  
Block: 290950141082005  
Block: 290950141082006  
Block: 290950141082007  
Block: 290950141082008  
Block: 290950141082009  
Block: 290950141082010  
Block: 290950141082011  
Block: 290950141082012  
Block: 290950141082013  
Block: 290950141082014  
Block: 290950141082015  
Block: 290950141082016  
Block: 290950141082017  
Block: 290950141082018  
Block: 290950141082025  
Block: 290950193001050  
Block: 290950193001051  
Block: 290950193001052  
Block: 290950193001053  
Block: 290950193001054  
VTD: Sni-A-Bar No. 22  
VTD: Sni-A-Bar No. 23  
VTD: Sni-A-Bar No. 23A  
VTD: Sni-A-Bar No. 24  
VTD: Sni-A-Bar No. 25,72A,& 72B (part)  
Block: 290950141083035  
Block: 290950141142010  
Block: 290950141142011  
Block: 290950141142042  
VTD: Sni-A-Bar No. 26 & 26N  
VTD: Sni-A-Bar No. 27  
VTD: Sni-A-Bar No. 31  
VTD: Sni-A-Bar No. 31A,67,78A,& 78B  
VTD: Sni-A-Bar No. 31B  
VTD: Sni-A-Bar No. 32 & 78N  
VTD: Sni-A-Bar No. 33  
VTD: Sni-A-Bar No. 34,34A,& 74 (part)  
Block: 290950141111042  
Block: 290950141111043  
Block: 290950141111044

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Block: 290950141111045  
Block: 290950141111046  
VTD: Sni-A-Bar No. 35  
VTD: Sni-A-Bar No. 35A  
VTD: Sni-A-Bar No. 36,36A,& 79A  
VTD: Sni-A-Bar No. 40 & 40B  
VTD: Sni-A-Bar No. 40A & 41  
VTD: Sni-A-Bar No. 40D & 40E  
VTD: Sni-A-Bar No. 42,42N,42X,42Y,42Z,44,44X,44Z,45,45A,45B,47,48,& 81C (part)  
Block: 290950140021003  
Block: 290950140021010  
Block: 290950140021022  
Block: 290950140021023  
Block: 290950140071047  
Block: 290950140071048  
Block: 290950140071049  
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Block: 290950140071081  
Block: 290950140071082  
Block: 290950140071083  
Block: 290950140071085  
Block: 290950140071086  
Block: 290950140071088  
Block: 290950140071093  
Block: 290950140071094  
Block: 290950140071095  
Block: 290950141011017  
Block: 290950141011018  
Block: 290950141011021  
VTD: Sni-A-Bar No. 50 & 91  
VTD: Sni-A-Bar No. 51,51A,& 94A  
VTD: Sni-A-Bar No. 53 & 92  
VTD: Sni-A-Bar No. 55  
VTD: Sni-A-Bar No. 57  
VTD: Sni-A-Bar No. 68 & 68Z (part)

Block: 290950141142003  
Block: 290950141142004  
Block: 290950141142005  
Block: 290950141142006  
Block: 290950141142041  
VTD: Sni-A-Bar No. 76 & 76A  
VTD: Sni-A-Bar No. 77  
VTD: Sni-A-Bar No. 78,78X,79,79N,84,84A,84B,84C,& 85  
VTD: Sni-A-Bar No. 86,87,88,88A,88B,& 88C (part)  
Block: 290950140021004  
Block: 290950140021005  
Block: 290950140021007  
Block: 290950140021008  
Block: 290950140021009  
Block: 290950140021011  
Block: 290950140021012  
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Block: 290950140021016  
Block: 290950140021017  
Block: 290950140021018  
Block: 290950140021019  
Block: 290950140021020  
Block: 290950140021021  
Block: 290950140021024  
Block: 290950140021025  
Block: 290950140021026  
Block: 290950140021027  
Block: 290950140022006  
Block: 290950140022007  
Block: 290950140022008  
Block: 290950140022009  
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Block: 290950140022011  
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Block: 290950140022016  
Block: 290950140022017  
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Block: 290950140022019  
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Block: 290950140042005  
Block: 290950140042015  
Block: 290950140042016  
Block: 290950140042017  
Block: 290950140042018  
Block: 290950140042019  
Block: 290950140042020

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Block: 290950140042021  
Block: 290950140042022  
Block: 290950140042023  
Block: 290950140051012  
Block: 290950140051013  
Block: 290950140051014  
Block: 290950140051015  
Block: 290950140051016  
Block: 290950140051017  
Block: 290950140051038  
Block: 290950140061033  
Block: 290950140061034  
Block: 290950140061057  
Block: 290950141111007  
Block: 290950141111008  
Block: 290950141111053  
Block: 290950141111054  
Block: 290950141121000  
Block: 290950141121001  
Block: 290950141121002  
Block: 290950141121003  
Block: 290950141121007  
Block: 290950141121008  
Block: 290950141121009  
Block: 290950141121012  
Block: 290950141121061  
VTD: Sni-A-Bar No. 94,94B,95,& 96  
VTD: Van Buren No. 1,1A,1B,1C,2,2A,2N,& 2X  
VTD: Van Buren No. 11N,19,19A,19B,19C,19D,20N,21,21N,23,& 24  
VTD: Van Buren No. 25,26,27,28,29,30,& 32  
VTD: Van Buren No. 3,4,5,6,6A,7,& 8 (part)  
Block: 290950139011001  
Block: 290950139011009  
Block: 290950139011010  
Block: 290950139011011  
Block: 290950139011013  
Block: 290950139011014  
Block: 290950139011015  
Block: 290950139011016  
Block: 290950139011017  
Block: 290950139011018  
Block: 290950139011019  
Block: 290950139011020  
Block: 290950139011021  
Block: 290950139011024  
Block: 290950139011025  
Block: 290950139011026  
Block: 290950139011027  
Block: 290950139011028  
Block: 290950139011029  
Block: 290950139011030

Block: 290950139011037  
Block: 290950139011038  
Block: 290950139011039  
Block: 290950139011040  
Block: 290950139011041  
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Block: 290950139011074  
Block: 290950139011075  
Block: 290950141121050  
Block: 290950141121052  
Block: 290950141121060  
Block: 290950141121062  
VTD: Van Buren No. 31 & 33  
VTD: Van Buren No. 34,35,36,& 37  
VTD: Van Buren No. 38,39,40,40A,40B,40C,40D,40N,& 43  
VTD: Van Buren No. 41 & 42  
VTD: Van Buren No. 9,10,10A,11,11A,12,13,14,15,17,18,& 20  
VTD: Washington No. 1  
VTD: Washington No. 10 & 10N  
VTD: Washington No. 11  
VTD: Washington No. 12  
VTD: Washington No. 13  
VTD: Washington No. 14  
VTD: Washington No. 15  
VTD: Washington No. 16  
VTD: Washington No. 17  
VTD: Washington No. 2  
VTD: Washington No. 3  
VTD: Washington No. 4  
VTD: Washington No. 5  
VTD: Washington No. 6  
VTD: Washington No. 7  
VTD: Washington No. 8  
VTD: Washington No. 9  
Lafayette MO County  
Ray MO County

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**Saline MO County**

**128.456. SIXTH CONGRESSIONAL DISTRICT (2010 CENSUS) — The sixth congressional district shall be composed of the following:**

**Adair MO County**

**Andrew MO County**

**Atchison MO County**

**Audrain MO County (part)**

**VTD: Benton City (part)**

**Block: 290079502003190**

**Block: 290079502003440**

**Block: 290079502003441**

**Block: 290079502003442**

**Block: 290079502003443**

**Block: 290079502003444**

**Block: 290079502003445**

**Block: 290079502003446**

**Block: 290079502003447**

**Block: 290079502003448**

**Block: 290079502003449**

**Block: 290079502003450**

**Block: 290079502003451**

**Block: 290079502003452**

**Block: 290079502003453**

**Block: 290079502003457**

**Block: 290079502003458**

**Block: 290079502003459**

**Block: 290079502003460**

**Block: 290079502003461**

**Block: 290079502003462**

**Block: 290079502003463**

**Block: 290079502003464**

**Block: 290079502003465**

**Block: 290079502003466**

**Block: 290079502003473**

**Block: 290079502004001**

**Block: 290079502004002**

**Block: 290079502004003**

**Block: 290079502004004**

**Block: 290079502004005**

**Block: 290079502004006**

**Block: 290079502004007**

**Block: 290079502004008**

**Block: 290079502004010**

**Block: 290079502004011**

**Block: 290079502004012**

**Block: 290079502004013**

**Block: 290079502004018**

**Block: 290079502004019**

**Block: 290079502004020**

**Block: 290079502004021**

Block: 290079502004022  
Block: 290079502004023  
Block: 290079502004024  
Block: 290079502004025  
Block: 290079502004026  
Block: 290079502004027  
Block: 290079502004029  
Block: 290079502004030  
Block: 290079502004031  
Block: 290079502004035  
Block: 290079502004036  
Block: 290079502004037  
Block: 290079502004038  
Block: 290079502004039  
Block: 290079502004040  
Block: 290079502004041  
Block: 290079502004042  
Block: 290079502004043  
Block: 290079502004044  
Block: 290079502004045  
Block: 290079502004046  
Block: 290079502004047  
Block: 290079502004048  
Block: 290079502004049  
Block: 290079502004050  
Block: 290079502004051  
Block: 290079502004052  
Block: 290079502004053  
Block: 290079502004054  
Block: 290079502004055  
Block: 290079502004057  
Block: 290079502004058  
Block: 290079502004060  
Block: 290079502004086  
Block: 290079502004087  
Block: 290079502004088  
Block: 290079502004089  
Block: 290079502004090  
Block: 290079502004091  
Block: 290079502004092  
Block: 290079502004093  
Block: 290079502004094  
Block: 290079502004095  
Block: 290079502004097  
Block: 290079502004098  
Block: 290079502004100  
Block: 290079502004101  
Block: 290079502004170  
Block: 290079502004171  
VTD: Farber  
VTD: I E Cuivre

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VTD: Laddonia  
VTD: Martinsburg (part)  
Block: 290079502002011  
Block: 290079502002012  
Block: 290079502002079  
Block: 290079502002080  
Block: 290079502002081  
Block: 290079502002082  
Block: 290079502002086  
Block: 290079502002087  
Block: 290079502002088  
Block: 290079502002089  
Block: 290079502002100  
Block: 290079502002101  
Block: 290079502003179  
Block: 290079502003181  
Block: 290079502003182  
Block: 290079502003185  
Block: 290079502003186  
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Block: 290079502003192  
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Block: 290079502003195  
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Block: 290079502003197  
Block: 290079502003198  
Block: 290079502003199  
Block: 290079502003200  
Block: 290079502003201  
Block: 290079502003202  
Block: 290079502003203  
Block: 290079502003204  
Block: 290079502003205  
Block: 290079502003351  
Block: 290079502003352  
Block: 290079502003353  
Block: 290079502003356  
Block: 290079502003357  
Block: 290079502003358  
Block: 290079502003359  
Block: 290079502003396  
Block: 290079502003397  
Block: 290079502003398  
Block: 290079502003399  
Block: 290079502003400  
Block: 290079502003401  
Block: 290079502003402

Block: 290079502003403  
Block: 290079502003404  
Block: 290079502003405  
Block: 290079502003406  
Block: 290079502003407  
Block: 290079502003408  
Block: 290079502003409  
Block: 290079502003410  
Block: 290079502003411  
Block: 290079502003412  
Block: 290079502003413  
Block: 290079502003414  
Block: 290079502003415  
Block: 290079502003416  
Block: 290079502003417  
Block: 290079502003418  
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Block: 290079502003426  
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Block: 290079502003428  
Block: 290079502003429  
Block: 290079502003430  
Block: 290079502003431  
Block: 290079502003432  
Block: 290079502003433  
Block: 290079502003436  
Block: 290079502003437  
Block: 290079502003438  
Block: 290079502003439  
Block: 290079502003454  
Block: 290079502003455  
Block: 290079502003456  
Block: 290079502003467  
Block: 290079502003468  
Block: 290079502003469  
Block: 290079502003470  
Block: 290079502003471  
Block: 290079502003472  
Block: 290079502003486  
Block: 290079502003487  
Block: 290079502003495  
Block: 290079502004000  
Block: 290079502004028  
Block: 290079502004032  
Block: 290079502004033

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Block: 290079502004034  
Block: 290079502004168  
Buchanan MO County  
Caldwell MO County  
Carroll MO County  
Chariton MO County  
Clark MO County  
Clay MO County (part)  
VTD: FR 1  
VTD: FR 2  
VTD: FR 3  
VTD: FR 4  
VTD: FR 5  
VTD: Gal 17  
VTD: KC 21 Lib 1  
VTD: KC 21 Lib 2  
VTD: KC 21 Lib 3  
VTD: KC 21 Pl 1  
VTD: KC 21-1  
VTD: KC 21-10  
VTD: KC 21-12 (part)  
Block: 290470212052031  
Block: 290470212052032  
Block: 290470212052033  
Block: 290470212053000  
Block: 290470212053001  
Block: 290470212053002  
Block: 290470212053003  
Block: 290470212053004  
Block: 290470212053005  
Block: 290470212053006  
Block: 290470212053007  
Block: 290470212053008  
Block: 290470212053009  
Block: 290470212053010  
Block: 290470212053011  
Block: 290470212053012  
Block: 290470212053013  
Block: 290470212053014  
Block: 290470212053015  
Block: 290470212053016  
Block: 290470212053017  
Block: 290470212053018  
Block: 290470212053019  
Block: 290470212053020  
Block: 290470212053021  
Block: 290470212053022  
Block: 290470212053023  
Block: 290470212053024  
Block: 290470212053025  
Block: 290470212053026

Block: 290470212053027  
Block: 290470212053028  
Block: 290470212053029  
Block: 290470212053030  
Block: 290470212053031  
Block: 290470212053032  
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Block: 290470212053034  
Block: 290470212053035  
Block: 290470212053036  
Block: 290470212053037  
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Block: 290470212062011  
Block: 290470212062012  
Block: 290470212062013  
Block: 290470212062014  
Block: 290470212062015  
Block: 290470212062016  
Block: 290470212062017  
Block: 290470212062018  
Block: 290470212062019  
Block: 290470212062020  
Block: 290470212062021  
Block: 290470212062022  
Block: 290470212062023  
Block: 290470212062024  
Block: 290470212062025  
Block: 290470212062026  
Block: 290470212062027  
Block: 290470212062028  
Block: 290470212062029  
Block: 290470212062030  
Block: 290470212062031  
Block: 290470212062032

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Block: 290470212062044  
Block: 290470212062045  
Block: 290470212063000  
Block: 290470212063001  
Block: 290470212063002  
Block: 290470212063003  
Block: 290470212063004  
Block: 290470212063005  
Block: 290470212063006  
Block: 290470212063007  
Block: 290470212063008  
Block: 290470212063009  
Block: 290470212063010  
Block: 290470212063011  
Block: 290470212063012  
Block: 290470212063013  
Block: 290470212063022  
Block: 290470212063023  
Block: 290470213031010  
Block: 290470213031011  
Block: 290470213031012  
Block: 290470213031013  
Block: 290470213031014  
Block: 290470213031015  
Block: 290470213031016  
Block: 290470213031017  
Block: 290470213031018  
Block: 290470213031019  
Block: 290470213031020  
Block: 290470213031021  
Block: 290470213031022  
Block: 290470213031023  
Block: 290470213031024  
Block: 290470213031025  
Block: 290470213031026  
Block: 290470213031030  
Block: 290470213032010  
Block: 290470213032011  
Block: 290470213032012  
Block: 290470213032013  
Block: 290470213032014  
Block: 290470213032015  
Block: 290470213032016  
Block: 290470213072021  
Block: 290470213072022  
Block: 290470213072023  
Block: 290470213072024  
Block: 290470213072025  
Block: 290470213072026  
Block: 290470213072034  
Block: 290470213072035

Block: 290470213072038  
Block: 290470213072039  
Block: 290470213073007  
Block: 290470213073018  
Block: 290470213073019  
Block: 290470213073020  
Block: 290470213073021  
Block: 290470213073040  
Block: 290470213073041  
Block: 290470213073042  
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Block: 290470213073057  
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Block: 290470213091040  
Block: 290470213091041  
Block: 290470213091042  
Block: 290470213091043  
Block: 290470213091044  
Block: 290470213091045  
Block: 290470213091046  
Block: 290470213091054  
Block: 290470213091079  
Block: 290470213091080  
Block: 290470213091081  
Block: 290470213091082  
Block: 290470213101006  
Block: 290470213101007  
Block: 290470213101008  
Block: 290470213101013  
Block: 290470213101014  
Block: 290470213101015  
Block: 290470213102025  
Block: 290470213102026  
Block: 290470213102027  
Block: 290470213102028  
Block: 290470213102029  
Block: 290470213102030  
VTD: KC 21-13

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VTD: KC 21-15  
VTD: KC 21-16  
VTD: KC 21-17  
VTD: KC 21-2  
VTD: KC 21-25 (part)  
Block: 290470212051031  
Block: 290470212061000  
Block: 290470212061001  
Block: 290470212061002  
Block: 290470212061003  
Block: 290470212061004  
Block: 290470212061005  
Block: 290470212061006  
Block: 290470212061007  
Block: 290470212061008  
Block: 290470212061009  
Block: 290470212061010  
Block: 290470212061011  
Block: 290470212071052  
Block: 290470212071056  
Block: 290470212081000  
Block: 290470212081001  
Block: 290470212082000  
Block: 290470212083000  
Block: 290470212083001  
Block: 290470212083002  
Block: 290470212083003  
Block: 290470212083004  
Block: 290470212083005  
Block: 290470212083006  
Block: 290470212083007  
Block: 290470212083008  
Block: 290470212083009  
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Block: 290470212083012  
Block: 290470212083013  
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Block: 290470212083016  
Block: 290470212083017  
Block: 290470212083018  
Block: 290470212083019  
Block: 290470212083020  
Block: 290470212083021  
Block: 290470212083022  
Block: 290470212083023  
Block: 290470212083024  
Block: 290470212083025  
Block: 290470212083026  
Block: 290470212083027

**VTD: KC 21-26**  
**VTD: Kry 1**  
**VTD: Kry 2**  
**VTD: Kry 3**  
**VTD: Kry 4**  
**VTD: Lib 1**  
**VTD: Lib 10**  
**VTD: Lib 11**  
**VTD: Lib 12**  
**VTD: Lib 13**  
**VTD: Lib 14**  
**VTD: Lib 2**  
**VTD: Lib 3**  
**VTD: Lib 4**  
**VTD: Lib 5**  
**VTD: Lib 6**  
**VTD: Lib 7**  
**VTD: Lib 8**  
**VTD: Lib 9**  
**VTD: Pl 1**  
**VTD: Pl 2**  
**VTD: Pl 3**  
**VTD: Wash 1**  
**VTD: Wash 2**  
**VTD: Wash 3**  
**Clinton MO County**  
**Daviess MO County**  
**DeKalb MO County**  
**Gentry MO County**  
**Grundy MO County**  
**Harrison MO County**  
**Holt MO County**  
**Jackson MO County (part)**  
**VTD: Blue Sub 3 No. 12 & 13 (part)**  
**Block: 290950150001004**  
**Block: 290950150001005**  
**Block: 290950150001006**  
**Block: 290950150001007**  
**Block: 290950150001008**  
**Block: 290950150001009**  
**Block: 290950150001010**  
**Block: 290950150001011**  
**Block: 290950150001013**  
**Block: 290950150001014**  
**Block: 290950150001015**  
**Block: 290950150001016**  
**Block: 290950150001017**  
**Block: 290950150001037**  
**Block: 290950150001054**  
**Block: 290950150001056**  
**Block: 290950150001057**

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Block: 290950150001059  
Block: 290950150001064  
Block: 290950150001080  
Block: 290950150001081  
Block: 290950150001082  
Block: 290950150001083  
Block: 290950150001084  
Block: 290950150001085  
Block: 290950150001086  
VTD: Blue Sub 8 No. 12,12A,& 12B (part)  
Block: 290950145022028  
Block: 290950145022029  
Block: 290950145022032  
Block: 290950145022033  
Block: 290950145022034  
Block: 290950145022054  
Block: 290950145022055  
VTD: Blue Sub 8 No. 13 & 13N (part)  
Block: 290950145022026  
Block: 290950145022027  
Block: 290950145022056  
Block: 290950145022057  
Block: 290950145022058  
Block: 290950145022059  
VTD: Fort Osage No. 1,1A,2,& 3 (part)  
Block: 290950148041001  
Block: 290950148041002  
Block: 290950148041005  
Block: 290950148041007  
Block: 290950148041039  
Block: 290950150001071  
Block: 290950150001072  
Block: 290950150001076  
Block: 290950150001077  
Block: 290950177001000  
Block: 290950177001001  
Block: 290950177001002  
Block: 290950177001003  
Block: 290950177001004  
Block: 290950177001005  
Block: 290950177001006  
Block: 290950177001008  
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Block: 290950177001012  
Block: 290950177001013  
Block: 290950177001014  
Block: 290950177001015  
Block: 290950177001016  
Block: 290950177001017

Block: 290950177001018  
Block: 290950177001019  
Block: 290950177001020  
Block: 290950177001021  
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Block: 290950177003021  
Block: 290950177003024  
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Block: 290950177003026  
Block: 290950177003029  
Block: 290950177003072  
Block: 290950177003073  
Block: 290950177003074  
Block: 290950177003075  
Block: 290950177003076  
Block: 290950177003077  
VTD: Fort Osage No. 11,12,& 15N  
VTD: Fort Osage No. 16,17,17A,19,& 20  
VTD: Fort Osage No. 21  
VTD: Fort Osage No. 27 & 28  
VTD: Fort Osage No. 4  
VTD: Fort Osage No. 5 & 30  
VTD: Fort Osage No. 6  
VTD: Fort Osage No. 7,8,25,& 26

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**VTD: Fort Osage No. 9**

**VTD: Prairie No. 29 & 30C (part)**

**Block: 290950142031001**

**Block: 290950142031002**

**Block: 290950142031025**

**Block: 290950142032000**

**Block: 290950142032001**

**Block: 290950142032002**

**Block: 290950142032004**

**Block: 290950142032017**

**Block: 290950142032020**

**Block: 290950142032021**

**Block: 290950142032022**

**Block: 290950142032024**

**VTD: Prairie No. 3 (part)**

**Block: 290950137031013**

**Block: 290950137031014**

**Block: 290950137031017**

**VTD: Prairie No. 30A (part)**

**Block: 290950142031003**

**Block: 290950142031004**

**Block: 290950142031006**

**Block: 290950142031007**

**Block: 290950142031008**

**Block: 290950142031009**

**Block: 290950142031010**

**Block: 290950142031011**

**Block: 290950142031012**

**Block: 290950142031013**

**Block: 290950142031021**

**Block: 290950142031022**

**Block: 290950142031023**

**Block: 290950142031024**

**VTD: Prairie No. 30B, 82, & 82A**

**VTD: Prairie No. 4**

**VTD: Prairie No. 40A & 44A (part)**

**Block: 290950179003000**

**Block: 290950179003005**

**Block: 290950179003006**

**Block: 290950185001051**

**Block: 290950186001019**

**Block: 290950186001023**

**Block: 290950186001025**

**Block: 290950186001026**

**Block: 290950186001027**

**Block: 290950186001028**

**Block: 290950186001033**

**Block: 290950186002004**

**Block: 290950186002005**

**Block: 290950186002006**

**Block: 290950186002014**

Block: 290950186002015  
Block: 290950186002016  
VTD: Prairie No. 41,42,& 81  
VTD: Prairie No. 43 & 79 (part)  
Block: 290950142043050  
Block: 290950142043053  
Block: 290950185001048  
Block: 290950185001049  
Block: 290950185001050  
Block: 290959891001038  
Block: 290959891001039  
Block: 290959891001040  
Block: 290959891001043  
Block: 290959891001044  
VTD: Prairie No. 46,67,67A,& 67B  
VTD: Prairie No. 47  
VTD: Prairie No. 48  
VTD: Prairie No. 49  
VTD: Prairie No. 5  
VTD: Prairie No. 50  
VTD: Prairie No. 50A (part)  
Block: 290950139041016  
Block: 290950139041018  
Block: 290950139042001  
Block: 290950139042002  
Block: 290950139042003  
Block: 290950139042004  
Block: 290950139042005  
Block: 290950139042006  
Block: 290950139042007  
Block: 290950139042008  
Block: 290950139042010  
Block: 290950139042011  
Block: 290950139042012  
Block: 290950139042013  
Block: 290950139042014  
Block: 290950139043026  
Block: 290950139043027  
Block: 290950139043028  
Block: 290950139043030  
Block: 290950139043031  
VTD: Prairie No. 50B  
VTD: Prairie No. 50C,58,58A,58B,58C,58D,58E,58F,& 76 (part)  
Block: 290950139013023  
Block: 290950139013024  
Block: 290950139013025  
Block: 290950139013026  
Block: 290950139013027  
Block: 290950139013028  
Block: 290950139013029  
Block: 290950139013030

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Block: 290950139043000

Block: 290950139043001

Block: 290950139043033

Block: 290950139161004

Block: 290950139161005

Block: 290950139161006

Block: 290950139161007

Block: 290950139161008

Block: 290950139161009

Block: 290950139161010

Block: 290950139161011

Block: 290950139161013

Block: 290950139161014

Block: 290950139161015

Block: 290950139161016

Block: 290950139161017

Block: 290950139161018

Block: 290950139161020

Block: 290950139162050

Block: 290950139162051

Block: 290950139162056

VTD: Prairie No. 50D

VTD: Prairie No. 55 & 56 (part)

Block: 290950141201024

Block: 290950141201025

Block: 290950141201026

Block: 290950141201027

Block: 290950141201028

Block: 290950141201029

Block: 290950141201030

Block: 290950141201031

Block: 290950141201032

Block: 290950141201033

Block: 290950141201034

Block: 290950141201035

Block: 290950141201037

Block: 290950141201038

Block: 290950141201039

Block: 290950141201040

Block: 290950141201043

Block: 290950141201044

VTD: Prairie No. 57,72,73,73A,73B,73C,73N,73W,& 73X (part)

Block: 290950141111037

Block: 290950141201019

Block: 290950141201020

Block: 290950141201021

Block: 290950141201022

Block: 290950141201036

Block: 290950141201041

Block: 290950141201042

Block: 290950141201051

Block: 290950141201052  
Block: 290959891001026  
Block: 290959891001029  
Block: 290959891001030  
Block: 290959891001031  
Block: 290959891001035  
Block: 290959891001048  
Block: 290959891001049  
Block: 290959891001050  
Block: 290959891001051  
Block: 290959891001052  
Block: 290959891001053  
Block: 290959891001054  
Block: 290959891001055  
Block: 290959891001064  
Block: 290959891001065  
Block: 290959891001068  
VTD: Prairie No. 59,59N,60,61,75B,75D,75E,75F,& 75G (part)  
Block: 290950141201046  
Block: 290950141201054  
Block: 290950141201055  
Block: 290950141201056  
Block: 290950141201057  
Block: 290950141201058  
Block: 290950141201060  
Block: 290950141201067  
VTD: Prairie No. 6  
VTD: Prairie No. 62,71,74,75,75A,75C,& 75N (part)  
Block: 290950139011044  
Block: 290950139013000  
Block: 290950139013001  
Block: 290950139013002  
Block: 290950139013003  
Block: 290950139013004  
Block: 290950139013005  
Block: 290950139013006  
Block: 290950139013008  
Block: 290950139013013  
Block: 290950139013015  
Block: 290950139013016  
Block: 290950139013019  
Block: 290950139013020  
Block: 290950139013021  
Block: 290950139161000  
Block: 290950139161001  
Block: 290950139161002  
Block: 290950139161003  
Block: 290950141201045  
Block: 290950141201047  
Block: 290950141201048  
Block: 290950141201049

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Block: 290950141201050  
Block: 290950141201053  
Block: 290950141201059  
Block: 290950141201061  
Block: 290950141201062  
Block: 290950141201063  
Block: 290950141201064  
Block: 290950141201065  
Block: 290950141201066  
Block: 290950141201068  
Block: 290950141201069  
Block: 290959891001045  
Block: 290959891001046  
Block: 290959891001047  
Block: 290959891001057  
Block: 290959891001058  
Block: 290959891001059  
Block: 290959891001060  
Block: 290959891001063  
Block: 290959891001066  
Block: 290959891001069  
VTD: Prairie No. 66 & 66F  
VTD: Prairie No. 66A,66B,66C,& 66G  
VTD: Prairie No. 66D & 66E  
VTD: Prairie No. 69  
VTD: Prairie No. 7  
VTD: Prairie No. 70,70A,70B,70C,& 70D  
VTD: Sni-A-Bar No. 1,1B,& 1C (part)  
Block: 290950145022007  
Block: 290950145022008  
Block: 290950145022009  
Block: 290950145022017  
Block: 290950145022018  
Block: 290950145022019  
Block: 290950145022042  
Block: 290950145022043  
Block: 290950145022045  
Block: 290950145022046  
Block: 290950145022047  
Block: 290950145022048  
Block: 290950145022049  
Block: 290950145022050  
Block: 290950145022051  
Block: 290950145022052  
Block: 290950145022053  
Block: 290950145022060  
Block: 290950145022061  
Block: 290950145022062  
Block: 290950145022063  
Block: 290950145022064  
Block: 290950145022065

Block: 290950145022066  
Block: 290950145022068  
Block: 290950145022070  
Block: 290950193001005  
Block: 290950193001006  
Block: 290950193001007  
Block: 290950193001008  
VTD: Sni-A-Bar No. 10  
VTD: Sni-A-Bar No. 11  
VTD: Sni-A-Bar No. 11A  
VTD: Sni-A-Bar No. 14,75N,& 75X (part)  
Block: 290950141011003  
Block: 290950141011004  
Block: 290950149052013  
Block: 290950149052014  
Block: 290950149052015  
Block: 290950149052016  
Block: 290950149052017  
VTD: Sni-A-Bar No. 17,17N,17X,17Z,& 69  
VTD: Sni-A-Bar No. 18,68N,& 68X  
VTD: Sni-A-Bar No. 19 (part)  
Block: 290950193002001  
Block: 290950193002002  
Block: 290950193002003  
Block: 290950193002004  
Block: 290950193002020  
VTD: Sni-A-Bar No. 1A  
VTD: Sni-A-Bar No. 2 & 3A  
VTD: Sni-A-Bar No. 21,21B,70,& 71 (part)  
Block: 290950193001026  
VTD: Sni-A-Bar No. 25,72A,& 72B (part)  
Block: 290950141142016  
Block: 290950141142017  
Block: 290950141142018  
Block: 290950141142019  
Block: 290950141142040  
Block: 290950193001055  
Block: 290950193001056  
Block: 290950193001057  
Block: 290950193001058  
Block: 290950193001059  
Block: 290950193001060  
Block: 290950193001061  
Block: 290950193001062  
Block: 290950193001063  
Block: 290950193001064  
Block: 290950193001065  
Block: 290950193001074  
Block: 290950193001075  
Block: 290950193001077  
Block: 290950193001079

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Block: 290950193001080  
Block: 290950193001081  
Block: 290950193001085  
Block: 290950193001086  
Block: 290950193001087  
Block: 290950193001088  
Block: 290950193001089  
Block: 290950193001090  
Block: 290950193001091  
Block: 290950193001092  
Block: 290950193001093  
Block: 290950193001094  
Block: 290950193001096  
Block: 290959891001015  
Block: 290959891001016  
Block: 290959891001017  
VTD: Sni-A-Bar No. 29 & 73  
VTD: Sni-A-Bar No. 3 & 3B  
VTD: Sni-A-Bar No. 30  
VTD: Sni-A-Bar No. 30A,30B,30C,& 30D  
VTD: Sni-A-Bar No. 34,34A,& 74 (part)  
Block: 290950141141009  
Block: 290950141141010  
Block: 290950141141011  
Block: 290950141141012  
Block: 290950141141013  
Block: 290950141141014  
Block: 290950141141015  
Block: 290950141141020  
Block: 290950141141021  
Block: 290950141201000  
Block: 290950141201001  
Block: 290950141201002  
Block: 290950141201003  
Block: 290950141201004  
Block: 290950141201005  
Block: 290950141201006  
Block: 290950141201007  
Block: 290950141201008  
Block: 290950141201009  
Block: 290950141201010  
Block: 290950141201011  
Block: 290950141201012  
Block: 290950141201013  
Block: 290950141201014  
Block: 290950141201015  
Block: 290950141201023  
Block: 290950141201070  
VTD: Sni-A-Bar No. 37,38,& 39  
VTD: Sni-A-Bar No. 4 & 4N  
VTD: Sni-A-Bar No. 42,42N,42X,42Y,42Z,44,44X,44Z,45,45A,45B,47,48,& 81C (part)

Block: 290950140071002

Block: 290950140071003

Block: 290950140071004

Block: 290950140071005

Block: 290950140071006

Block: 290950140071011

Block: 290950140071012

Block: 290950140071013

Block: 290950140071014

Block: 290950140071018

Block: 290950140071025

Block: 290950140071026

Block: 290950140071027

Block: 290950140071028

Block: 290950140071029

Block: 290950140071030

Block: 290950140071031

Block: 290950140071032

Block: 290950140071038

Block: 290950140071041

Block: 290950140071044

Block: 290950140071045

Block: 290950140071046

Block: 290950140071054

Block: 290950140071055

Block: 290950140071056

Block: 290950140071057

Block: 290950140071096

Block: 290950140071097

Block: 290950149032075

Block: 290950149032076

Block: 290950149032077

Block: 290950149032106

Block: 290950149032135

VTD: Sni-A-Bar No. 49

VTD: Sni-A-Bar No. 4X,59,59N,59X,60,60A,60N,& 60X

VTD: Sni-A-Bar No. 5 & 5N

VTD: Sni-A-Bar No. 52 & 52A

VTD: Sni-A-Bar No. 5A,5B,61,62,62A,& 97

VTD: Sni-A-Bar No. 6 & 6B

VTD: Sni-A-Bar No. 65,65N,& 65X

VTD: Sni-A-Bar No. 68 & 68Z (part)

Block: 290950141142012

Block: 290950141142013

Block: 290950141142014

Block: 290950141142015

Block: 290950141142020

Block: 290950141142029

Block: 290950141142032

Block: 290950141142034

Block: 290950141142035



Block: 290950141142037  
Block: 290950141142038  
Block: 290950141142039  
Block: 290950141201016  
Block: 290950141201017  
Block: 290950141201018  
Block: 290950185001042  
Block: 290950185001043  
Block: 290950193001021  
Block: 290950193001022  
Block: 290950193001024  
Block: 290950193001036  
Block: 290950193001037  
Block: 290950193001038  
Block: 290950193001042  
Block: 290950193001044  
Block: 290950193001045  
Block: 290950193001066  
Block: 290950193001067  
Block: 290950193001068  
Block: 290950193001069  
Block: 290950193001070  
Block: 290950193001071  
Block: 290950193001072  
Block: 290950193001073  
Block: 290950193001076  
Block: 290950193001078  
Block: 290950193001082  
Block: 290950193001083  
Block: 290950193001084  
Block: 290950193001095  
Block: 290950193001097  
Block: 290950193001098  
Block: 290959891001000  
Block: 290959891001006  
Block: 290959891001007  
Block: 290959891001008  
Block: 290959891001009  
Block: 290959891001010  
Block: 290959891001011  
Block: 290959891001012  
Block: 290959891001013  
Block: 290959891001018  
Block: 290959891001020  
Block: 290959891001021  
Block: 290959891001022  
Block: 290959891001023  
Block: 290959891001024  
Block: 290959891001025  
Block: 290959891001027  
Block: 290959891001028

Block: 290959891001056  
Block: 290959891001067  
Block: 290959891001078  
VTD: Sni-A-Bar No. 6A & 66  
VTD: Sni-A-Bar No. 6C,6D,6E,& 6F  
VTD: Sni-A-Bar No. 7,13,13A,13N,81,81A,81D,81Y,& 99N  
VTD: Sni-A-Bar No. 8  
VTD: Sni-A-Bar No. 80  
VTD: Sni-A-Bar No. 81B  
VTD: Sni-A-Bar No. 82,82A,82N,& 82X  
VTD: Sni-A-Bar No. 86,87,88,88A,88B,& 88C (part)  
Block: 290950140021006  
VTD: Sni-A-Bar No. 89  
VTD: Sni-A-Bar No. 9  
VTD: Sni-A-Bar No. 90,90A,90B,& 90N  
VTD: Van Buren No. 3,4,5,6,6A,7,& 8 (part)  
Block: 290950139013007  
Block: 290950139013009  
Block: 290950139013010  
Block: 290950139013011  
Block: 290950139013012  
Block: 290950139013014  
Block: 290950139013017  
Block: 290950139013018  
Block: 290950139013022  
Knox MO County  
Lewis MO County  
Linn MO County  
Livingston MO County  
Macon MO County  
Marion MO County  
Mercer MO County  
Monroe MO County  
Nodaway MO County  
Pike MO County  
Platte MO County  
Putnam MO County  
Ralls MO County  
Schuyler MO County  
Scotland MO County  
Shelby MO County  
Sullivan MO County  
Worth MO County

**128.457. SEVENTH CONGRESSIONAL DISTRICT (2010 CENSUS) — The seventh congressional district shall be composed of the following:**

Barry MO County  
Christian MO County  
Greene MO County  
Jasper MO County  
Lawrence MO County

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McDonald MO County  
Newton MO County  
Polk MO County  
Stone MO County  
Taney MO County  
Webster MO County (part)  
VTD: Benton  
VTD: Dallas/Green Hills  
VTD: Diggins (part)  
Block: 292254704022128  
Block: 292254704022129  
Block: 292254704022130  
Block: 292254704022131  
Block: 292254704022132  
Block: 292254704022133  
Block: 292254704022136  
Block: 292254704022137  
Block: 292254704022138  
Block: 292254704022139  
Block: 292254704022141  
Block: 292254704022142  
Block: 292254704022143  
Block: 292254704022144  
Block: 292254704022145  
Block: 292254704022178  
Block: 292254704022179  
Block: 292254704022180  
Block: 292254704022181  
Block: 292254704022182  
Block: 292254704022183  
Block: 292254704022184  
Block: 292254704022185  
Block: 292254704022186  
Block: 292254704022187  
Block: 292254704022208  
Block: 292254704022209  
Block: 292254704022210  
Block: 292254704022211  
Block: 292254704022212  
Block: 292254704022213  
Block: 292254704022214  
Block: 292254704022219  
Block: 292254704022220  
Block: 292254704022221  
Block: 292254704022222  
Block: 292254704022223  
VTD: Finley (part)  
Block: 292254704011163  
Block: 292254704011164  
Block: 292254704011165  
Block: 292254704011185

Block: 292254704011186  
Block: 292254704011187  
Block: 292254704011190  
Block: 292254704011192  
Block: 292254704011193  
Block: 292254704022140

**128.458. EIGHTH CONGRESSIONAL DISTRICT (2010 CENSUS) — The eighth congressional district shall be composed of the following:**

Bollinger MO County  
Butler MO County  
Cape Girardeau MO County  
Carter MO County  
Crawford MO County  
Dent MO County  
Douglas MO County  
Dunklin MO County  
Howell MO County  
Iron MO County  
Jefferson MO County (part)  
VTD: Airport No. 1  
VTD: Airport No. 2  
VTD: Athena  
VTD: Cedar Hill Lakes  
VTD: Cedar Hill No. 1 (part)  
Block: 290997004012017  
Block: 290997004012018  
Block: 290997004012019  
Block: 290997004012020  
Block: 290997004012021  
Block: 290997004012022  
Block: 290997004012027  
Block: 290997004012028  
Block: 290997004012029  
Block: 290997004012030  
Block: 290997004012031  
Block: 290997004012032  
Block: 290997004013000  
Block: 290997004013001  
Block: 290997004013002  
Block: 290997004013003  
Block: 290997004013004  
Block: 290997004013005  
Block: 290997004013006  
Block: 290997004013007  
Block: 290997004013008  
Block: 290997004013009  
Block: 290997004013010  
Block: 290997004013011  
Block: 290997004013012  
Block: 290997004013013

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Block: 290997004013014  
Block: 290997004013019  
Block: 290997004013020  
Block: 290997004013021  
Block: 290997004013026  
Block: 290997011021011  
Block: 290997011021015  
Block: 290997011021016  
Block: 290997011021022  
Block: 290997011021045  
Block: 290997011021046  
Block: 290997011021047  
Block: 290997011021048  
Block: 290997011021049  
Block: 290997011021050  
Block: 290997011021051  
Block: 290997011021052  
Block: 290997011021053  
Block: 290997011021059  
VTD: Crystal City (part)  
Block: 290997007005009  
Block: 290997007005010  
Block: 290997007005011  
Block: 290997007005012  
Block: 290997007005013  
Block: 290997007005014  
Block: 290997007005015  
Block: 290997007005016  
Block: 290997007005018  
Block: 290997007005019  
Block: 290997007005020  
Block: 290997007005021  
Block: 290997007005022  
Block: 290997007005023  
Block: 290997007005025  
Block: 290997007005026  
Block: 290997007005027  
Block: 290997007005028  
Block: 290997007005029  
Block: 290997007005030  
Block: 290997007005031  
Block: 290997007005033  
Block: 290997007005037  
Block: 290997007005038  
Block: 290997007005039  
Block: 290997007005040  
Block: 290997007005041  
Block: 290997007005042  
Block: 290997007005048  
Block: 290997007005054  
Block: 290997007005059

Block: 290997007005060  
Block: 290997007005061  
Block: 290997007005062  
Block: 290997007005063  
Block: 290997007005064  
Block: 290997007005069  
Block: 290997007005070  
Block: 290997007005071  
Block: 290997007005072  
Block: 290997007005073  
Block: 290997007005076  
Block: 290997007005077  
Block: 290997007005078  
Block: 290997007005079  
Block: 290997007005080  
Block: 290997007005081  
Block: 290997007005082  
Block: 290997007005083  
Block: 290997007005087  
Block: 290997007005088  
Block: 290997007005089  
Block: 290997007005093  
Block: 290997007005096  
Block: 290997007005097  
Block: 290997007005098  
Block: 290997007005099  
Block: 290997007005100  
Block: 290997007005101  
Block: 290997007005102  
Block: 290997009002000  
Block: 290997009002001  
Block: 290997009002002  
Block: 290997009002014  
Block: 290997009002015  
Block: 290997009002018  
Block: 290997009002019  
Block: 290997009002020  
Block: 290997009002042  
Block: 290997014041003  
Block: 290997014041004  
Block: 290997014041005  
Block: 290997014041006  
Block: 290997014041009  
Block: 290997014041010  
Block: 290997014041017  
Block: 290997014043016  
Block: 290997014043021  
Block: 290997014043022  
Block: 290997014043023  
VTD: DeSoto  
VTD: Festus (part)

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Block: 290997007005017  
Block: 290997007005032  
Block: 290997007005034  
Block: 290997007005035  
Block: 290997007005036  
Block: 290997007005051  
Block: 290997007005065  
Block: 290997007005066  
Block: 290997007005067  
Block: 290997007005068  
Block: 290997009001003  
Block: 290997009001004  
Block: 290997009001007  
Block: 290997009001015  
Block: 290997009001016  
Block: 290997009001024  
Block: 290997009001025  
Block: 290997009001026  
Block: 290997009001027  
Block: 290997009001028  
Block: 290997009002021  
Block: 290997009002022  
Block: 290997009002023  
Block: 290997009002024  
Block: 290997009002027  
Block: 290997009002028  
Block: 290997009002029  
Block: 290997009002030  
Block: 290997009002031  
Block: 290997009002032  
Block: 290997009002033  
Block: 290997009002034  
Block: 290997009002035  
Block: 290997009002036  
Block: 290997009002037  
Block: 290997009002038  
Block: 290997009002039  
Block: 290997009002040  
Block: 290997009002041  
Block: 290997009002043  
Block: 290997009002044  
Block: 290997009003000  
Block: 290997009003001  
Block: 290997009003002  
Block: 290997009003003  
Block: 290997009003005  
Block: 290997009003006  
Block: 290997009003008  
Block: 290997009003010  
Block: 290997009003011  
Block: 290997009003012

Block: 290997009003013  
Block: 290997009003014  
Block: 290997009003015  
Block: 290997009003016  
Block: 290997009003022  
Block: 290997009003023  
Block: 290997009003035  
Block: 290997009003036  
Block: 290997009003046  
Block: 290997009003047  
Block: 290997009003048  
Block: 290997009003051  
Block: 290997009003072  
Block: 290997009003073  
Block: 290997009003074  
Block: 290997009003075  
Block: 290997009003077  
Block: 290997009003078  
Block: 290997009003086  
Block: 290997009003194  
Block: 290997009003195  
VTD: Festus Outside (part)  
Block: 290997008012014  
Block: 290997009003049  
Block: 290997009003053  
Block: 290997009003054  
Block: 290997009003055  
Block: 290997009003056  
Block: 290997009003057  
Block: 290997009003058  
Block: 290997009003059  
Block: 290997009003060  
Block: 290997009003061  
Block: 290997009003067  
Block: 290997009003068  
Block: 290997009003183  
Block: 290997009003184  
Block: 290997009003198  
VTD: Fletcher  
VTD: Goldman No. 1  
VTD: Goldman No. 2  
VTD: Grubville No. 1  
VTD: Grubville No. 2  
VTD: Hematite  
VTD: Hillsboro 1-2  
VTD: Hillsboro P-1  
VTD: Hillsboro P-2  
VTD: Jefferson R7-1  
VTD: Jefferson R7-2  
VTD: Lake Tishomingo (part)  
Block: 290997005021009

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Block: 290997005021010  
Block: 290997005021011  
Block: 290997005021012  
Block: 290997005021013  
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**SECTION B. GRAPHICAL MAP REPRESENTATION OF CONGRESSIONAL DISTRICT BOUNDARIES TO BE PUBLISHED.** — Upon passage and enactment of sections 128.451 to 128.458 of section A of this act and as provided to the Revisor of Statutes, the Revisor of Statutes shall publish the graphical map representation of the official congressional district boundaries as an appendix of the Revised Statutes of Missouri.

Vetoed April 29, 2011, Veto Override May 4, 2011

HB 197 [HCS HB 197]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Requires the Department of Health and Senior Services to post on its web site resources relating to umbilical cord blood**

AN ACT to amend chapter 191, RSMo, by adding thereto two new sections relating to cord blood banking.

**SECTION**

- A. Enacting clause.
- 191.755. Department to post resources on website, content.
- 191.758. Information to be made available by physician to pregnant women, when.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Chapter 191, RSMo, is amended by adding thereto two new sections, to be known as sections 191.755 and 191.758, to read as follows:

**191.755. DEPARTMENT TO POST RESOURCES ON WEBSITE, CONTENT.** — The director of the department of health and senior services shall make publicly available, by posting on the department's website, resources relating to umbilical cord blood that have been developed by the Parent's Guide to Cord Blood Foundation, or a successor organization, which includes the following information:

(1) An explanation of the potential value and uses of umbilical cord blood, including cord blood cells and stem cells, for individuals who are or are not biologically related to a mother or her newborn child;

(2) An explanation of the differences between using one's own blood cord cells and using related or unrelated cord blood stem cells in the treatment of disease;

(3) An explanation of the differences between public and private umbilical cord blood banking;

(4) The options available to a mother relating to stem cells that are contained in the umbilical cord blood after the delivery of her newborn, including:

(a) Donating the stem cells to a public umbilical cord blood bank where facilities are available;

(b) Storing the stem cells in a private family umbilical cord blood bank for use by immediate and extended family members;

(c) Storing the stem cells for immediate or extended family members through a family or sibling donor banking program that provides free collection, processing, and storage where there is an existing medical need; and

(d) Discarding the stem cells;

(5) The medical processes involved in the collection of cord blood;

(6) Medical or family history criteria that can impact a family's consideration of umbilical cord blood banking, including the likelihood of using a baby's cord blood to serve as a match for a family member who has a medical condition;

(7) Options for ownership and future use of donated umbilical cord blood;

(8) The average cost of public and private umbilical cord blood banking;

(9) The availability of public and private cord blood banks to citizens of Missouri, including:

(a) A list of public cord blood banks and hospitals served by such blood banks;

(b) A list of private cord blood banks that are available; and

(c) The availability of free family banking and sibling donor programs where there is an existing medical need by a family member; and

(10) An explanation of which racial and ethnic groups are in particular need of publicly donated cord blood samples based upon medical data developed by the United States Department of Health and Human Services, Health Resources and Services Administration.

**191.758. INFORMATION TO BE MADE AVAILABLE BY PHYSICIAN TO PREGNANT WOMEN, WHEN.** — Beginning October 1, 2011, every licensed physician who provides obstetrical or gynecological care to a pregnant woman may, prior to the beginning of the pregnant woman's third trimester of pregnancy or, if later, at the first visit of such pregnant woman

to the physician, make available to the patient information developed under section 191.755 relating to the woman's options with respect to umbilical cord blood banking.

Approved July 8, 2011

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HB 199 [HB 199]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Specifies that a prior or persistent offender of an intoxication-related offense must perform a specified minimum number of hours of community service as an alternative to imprisonment**

AN ACT to repeal section 577.023, RSMo, and to enact in lieu thereof one new section relating to community service requirements for intoxication-related traffic offenses, with existing penalty provisions.

SECTION

A. Enacting clause.

577.023. Aggravated, chronic, persistent and prior offenders — enhanced penalties — imprisonment requirements, exceptions — procedures — definitions.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Section 577.023, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 577.023, to read as follows:

**577.023. AGGRAVATED, CHRONIC, PERSISTENT AND PRIOR OFFENDERS — ENHANCED PENALTIES — IMPRISONMENT REQUIREMENTS, EXCEPTIONS — PROCEDURES — DEFINITIONS.** — 1. For purposes of this section, unless the context clearly indicates otherwise:

(1) An "aggravated offender" is a person who:

(a) Has pleaded guilty to or has been found guilty of three or more intoxication-related traffic offenses; or

(b) Has pleaded guilty to or has been found guilty of one or more intoxication-related traffic offense and, in addition, any of the following: involuntary manslaughter under subdivision (2) or (3) of subsection 1 of section 565.024; murder in the second degree under section 565.021, where the underlying felony is an intoxication-related traffic offense; or assault in the second degree under subdivision (4) of subsection 1 of section 565.060; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082;

(2) A "chronic offender" is:

(a) A person who has pleaded guilty to or has been found guilty of four or more intoxication-related traffic offenses; or

(b) A person who has pleaded guilty to or has been found guilty of, on two or more separate occasions, any combination of the following: involuntary manslaughter under subdivision (2) or (3) of subsection 1 of section 565.024; murder in the second degree under section 565.021, where the underlying felony is an intoxication-related traffic offense; assault in the second degree under subdivision (4) of subsection 1 of section 565.060; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082; or

(c) A person who has pleaded guilty to or has been found guilty of two or more intoxication-related traffic offenses and, in addition, any of the following: involuntary manslaughter under

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subdivision (2) or (3) of subsection 1 of section 565.024; murder in the second degree under section 565.021, where the underlying felony is an intoxication-related traffic offense; assault in the second degree under subdivision (4) of subsection 1 of section 565.060; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082;

(3) "Continuous alcohol monitoring", automatically testing breath, blood, or transdermal alcohol concentration levels and tampering attempts at least once every hour, regardless of the location of the person who is being monitored, and regularly transmitting the data. Continuous alcohol monitoring shall be considered an electronic monitoring service under subsection 3 of section 217.690;

(4) An "intoxication-related traffic offense" is driving while intoxicated, driving with excessive blood alcohol content, involuntary manslaughter pursuant to subdivision (2) or (3) of subsection 1 of section 565.024, murder in the second degree under section 565.021, where the underlying felony is an intoxication-related traffic offense, assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, assault of a law enforcement officer in the second degree pursuant to subdivision (4) of subsection 1 of section 565.082, or driving under the influence of alcohol or drugs in violation of state law or a county or municipal ordinance;

(5) A "persistent offender" is one of the following:

(a) A person who has pleaded guilty to or has been found guilty of two or more intoxication-related traffic offenses;

(b) A person who has pleaded guilty to or has been found guilty of involuntary manslaughter pursuant to subdivision (2) or (3) of subsection 1 of section 565.024, assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, assault of a law enforcement officer in the second degree pursuant to subdivision (4) of subsection 1 of section 565.082; and

(6) A "prior offender" is a person who has pleaded guilty to or has been found guilty of one intoxication-related traffic offense, where such prior offense occurred within five years of the occurrence of the intoxication-related traffic offense for which the person is charged.

2. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or 577.012 who is alleged and proved to be a prior offender shall be guilty of a class A misdemeanor.

3. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or 577.012 who is alleged and proved to be a persistent offender shall be guilty of a class D felony.

4. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or section 577.012 who is alleged and proved to be an aggravated offender shall be guilty of a class C felony.

5. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or section 577.012 who is alleged and proved to be a chronic offender shall be guilty of a class B felony.

6. No state, county, or municipal court shall suspend the imposition of sentence as to a prior offender, persistent offender, aggravated offender, or chronic offender under this section nor sentence such person to pay a fine in lieu of a term of imprisonment, section 557.011 to the contrary notwithstanding.

(1) No prior offender shall be eligible for parole or probation until he or she has served a minimum of ten days imprisonment:

(a) Unless as a condition of such parole or probation such person performs at least thirty days **involving at least two hundred forty hours** of community service under the supervision of the court in those jurisdictions which have a recognized program for community service; or

(b) The offender participates in and successfully completes a program established pursuant to section 478.007 or other court-ordered treatment program, if available.

(2) No persistent offender shall be eligible for parole or probation until he or she has served a minimum of thirty days imprisonment:



(a) Unless as a condition of such parole or probation such person performs at least sixty days **involving at least four hundred eighty hours** of community service under the supervision of the court; or

(b) The offender participates in and successfully completes a program established pursuant to section 478.007 or other court-ordered treatment program, if available.

(3) No aggravated offender shall be eligible for parole or probation until he or she has served a minimum of sixty days imprisonment.

(4) No chronic offender shall be eligible for parole or probation until he or she has served a minimum of two years imprisonment. In addition to any other terms or conditions of probation, the court shall consider, as a condition of probation for any person who pleads guilty to or is found guilty of an intoxication-related traffic offense, requiring the offender to abstain from consuming or using alcohol or any products containing alcohol as demonstrated by continuous alcohol monitoring or by verifiable breath alcohol testing performed a minimum of four times per day as scheduled by the court for such duration as determined by the court, but not less than ninety days. The court may, in addition to imposing any other fine, costs, or assessments provided by law, require the offender to bear any costs associated with continuous alcohol monitoring or verifiable breath alcohol testing.

7. The state, county, or municipal court shall find the defendant to be a prior offender, persistent offender, aggravated offender, or chronic offender if:

(1) The indictment or information, original or amended, or the information in lieu of an indictment pleads all essential facts warranting a finding that the defendant is a prior offender or persistent offender; and

(2) Evidence is introduced that establishes sufficient facts pleaded to warrant a finding beyond a reasonable doubt the defendant is a prior offender, persistent offender, aggravated offender, or chronic offender; and

(3) The court makes findings of fact that warrant a finding beyond a reasonable doubt by the court that the defendant is a prior offender, persistent offender, aggravated offender, or chronic offender.

8. In a jury trial, the facts shall be pleaded, established and found prior to submission to the jury outside of its hearing.

9. In a trial without a jury or upon a plea of guilty, the court may defer the proof in findings of such facts to a later time, but prior to sentencing.

10. The defendant shall be accorded full rights of confrontation and cross-examination, with the opportunity to present evidence, at such hearings.

11. The defendant may waive proof of the facts alleged.

12. Nothing in this section shall prevent the use of presentence investigations or commitments.

13. At the sentencing hearing both the state, county, or municipality and the defendant shall be permitted to present additional information bearing on the issue of sentence.

14. The pleas or findings of guilt shall be prior to the date of commission of the present offense.

15. The court shall not instruct the jury as to the range of punishment or allow the jury, upon a finding of guilt, to assess and declare the punishment as part of its verdict in cases of prior offenders, persistent offenders, aggravated offenders, or chronic offenders.

16. Evidence of a prior conviction, plea of guilty, or finding of guilt in an intoxication-related traffic offense shall be heard and determined by the trial court out of the hearing of the jury prior to the submission of the case to the jury, and shall include but not be limited to evidence received by a search of the records of the Missouri uniform law enforcement system, including criminal history records from the central repository or records from the driving while intoxicated tracking system (DWITS) maintained by the Missouri state highway patrol, or the certified driving record maintained by the Missouri department of revenue. After hearing the evidence, the court shall enter

its findings thereon. A plea of guilty or a finding of guilt followed by incarceration, a fine, a suspended imposition of sentence, suspended execution of sentence, probation or parole or any combination thereof in any intoxication-related traffic offense in a state, county or municipal court or any combination thereof, shall be treated as a prior plea of guilty or finding of guilt for purposes of this section.

Approved June 16, 2011

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## HB 204 [HB 204]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Allows a resident who is on active military duty to renew his or her expired driver's license without a complete examination if the renewal is made within a specified time from discharge or residency**

AN ACT to repeal section 41.950, RSMo, and to enact in lieu thereof two new sections relating to driver's license renewal for military personnel.

**SECTION**

- A. Enacting clause.
- 41.950. Members of military forces called to active duty — relieved from certain provisions of law.
- 302.186. Active military duty, expiration of driver's license during, renewal without examination, when — rulemaking authority.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Section 41.950, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 41.950 and 302.186, to read as follows:

**41.950. MEMBERS OF MILITARY FORCES CALLED TO ACTIVE DUTY — RELIEVED FROM CERTAIN PROVISIONS OF LAW.** — 1. Any resident of this state who is a member of the national guard or of any reserve component of the armed forces of the United States or who is a member of the United States Army, the United States Navy, the United States Air Force, the United States Marine Corps, the United States Coast Guard or an officer of the United States Public Health Service detailed by proper authority for duty with any branch of the United States armed forces described in this section and who is engaged in the performance of active duty in the military service of the United States in a military conflict in which reserve components have been called to active duty under the authority of 10 U.S.C. 672(d) or 10 U.S.C. 673b or any such subsequent call or order by the President or Congress for any period of thirty days or more shall be relieved from certain provisions of state law, as follows:

(1) No person performing such military service who owns a motor vehicle shall be required to maintain financial responsibility on such motor vehicle as required under section 303.025 until such time as that person completes such military service, unless any person shall be operating such motor vehicle while the vehicle owner is performing such military service;

(2) No person failing to renew his **or her** driver's license while performing such military service shall be required to take a complete examination as required under section 302.173 when renewing his **or her** license within [sixty] **ninety** days after completing such military service **and reestablishing residence within the state;**

(3) Any motor vehicle registration required under chapter 301 that expires for any person performing such military service may be renewed by such person within sixty days of completing such military service without being required to pay a delinquent registration fee; however, such motor vehicle shall not be operated while the person is performing such military service unless the motor vehicle registration is renewed;

(4) Any person enrolled by the supreme court of Missouri or licensed, registered or certified under chapter 168, 256, 317, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 375, 640 or 644, and interpreters licensed under sections 209.319 to 209.339, whose license, registration or certification expires while

performing such military service, may renew such license, registration or certification within sixty days of completing such military service without penalty;

(5) In the case of corporate registration reports, franchise tax reports or other reports required to be filed with the office of secretary of state, where the filing of such report would be delayed because of a person performing such military service, such reports shall be filed without penalty within one hundred twenty days of the completion of such military service;

(6) No person performing such military service who is subject to a criminal summons for a traffic violation shall be subject to nonappearance sanctions for such violation until after one hundred eighty days after the completion of such military service;

(7) No person performing such military service who is required under state law to file financial disclosure reports shall be required to file such reports while performing such military service; however, such reports covering that period of time that such military service is performed shall be filed within one hundred eighty days after the completion of such military service;

(8) Any person with an indebtedness, liability or obligation for state income tax or property tax on personal or real property who is performing such military service or a spouse of such person filing a combined return or owning property jointly shall be granted an extension to file any papers or to pay any obligation until one hundred eighty days after the completion of such military service or continuous hospitalization as a result of such military service notwithstanding the provisions of section 143.991 to the contrary and shall be allowed to pay such tax without penalty or interest if paid within the one hundred eighty-day period;

(9) Notwithstanding other provisions of the law to the contrary, for the purposes of this section, interest shall be allowed and paid on any overpayment of tax imposed by sections 143.011 to 143.998 at the rate of six percent per annum from the original due date of the return or the date the tax was paid, whichever is later;

(10) No state agency, board, commission or administrative tribunal shall take any administrative action against any person performing such military service for that person's failure to take any required action or meet any required obligation not already provided for in subdivisions (1) to (8) of this subsection until one hundred eighty days after the completion of such military service, except that any agency, board, commission or administrative tribunal affected by this subdivision may, in its discretion, extend the time required to take such action or meet such obligation beyond the one hundred eighty-day period;

(11) Any disciplinary or administrative action or proceeding before any state agency, board, commission or administrative tribunal where the person performing such military service is a necessary party, which occurs during such period of military service, shall be stayed by the administrative entity before which it is pending until sixty days after the end of such military service.

2. Upon completing such military service, the person shall provide the appropriate agency, board, commission or administrative tribunal an official order from the appropriate military authority as evidence of such military service.

3. The provisions of this section shall apply to any individual described in subsection 1 of this section who performs such military service on or after August 2, 1990.

**302.186. ACTIVE MILITARY DUTY, EXPIRATION OF DRIVER'S LICENSE DURING, RENEWAL WITHOUT EXAMINATION, WHEN — RULEMAKING AUTHORITY. — 1. Notwithstanding any other law, if the driver's license of any person expires while such person is on active duty in the armed forces of the United States, the license of such person shall be renewable, without examination, at any time prior to the end of the sixth month following the discharge of such person from the armed forces, or within ninety days after reestablished residence within the state, whichever time is sooner. Missouri residents on active duty in the armed forces of the United States or any dependent thereof age twenty-**

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one or older residing outside the state of Missouri or the United States may renew their driver's license by mail.

2. The department of revenue may promulgate rules necessary to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2011, shall be invalid and void.

Approved June 16, 2011

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HB 213 [SS HCS HB 213]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Specifies that no abortion of a viable, unborn child can be performed or induced except in certain specified situations**

AN ACT to repeal sections 188.015, 188.029, and 188.030, RSMo, and to enact in lieu thereof two new sections relating to abortion, with penalty provisions.

SECTION

- A. Enacting clause.
- 188.015. Definitions.
- 188.030. Abortion of viable unborn child prohibited, exceptions — physician duties — violations, penalty — severability — right of intervention, when.
- 188.029. Physician, determination of viability, duties.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 188.015, 188.029, and 188.030, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 188.015 and 188.030, to read as follows:

**188.015. DEFINITIONS.** — As used in this chapter, the following terms mean:

(1) "Abortion"[, the intentional destruction of the life of an embryo or fetus in his or her mother's womb or the intentional termination of the pregnancy of a mother with an intention other than to increase the probability of a live birth or to remove a dead or dying unborn child] :

(a) **The act of using or prescribing any instrument, device, medicine, drug, or any other means or substance with the intent to destroy the life of an embryo or fetus in his or her mother's womb; or**

(b) **The intentional termination of the pregnancy of a mother by using or prescribing any instrument, device, medicine, drug, or other means or substance with an intention other than to increase the probability of a live birth or to remove a dead or dying unborn child;**

(2) "Abortion facility", a clinic, physician's office, or any other place or facility in which abortions are performed or induced other than a hospital;

(3) "Conception", the fertilization of the ovum of a female by a sperm of a male;

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- (4) "Department", the department of health and senior services;
- (5) "Gestational age", length of pregnancy as measured from the first day of the woman's last menstrual period;
- (6) "Medical emergency", a condition which, [on the basis of a physician's good faith clinical] **based on reasonable medical** judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert the death of the pregnant woman or for which a delay will create a serious risk of substantial and irreversible **physical** impairment of a major bodily function of the pregnant woman;
- (7) "Physician", any person licensed to practice medicine in this state by the state board of registration for the healing arts;
- (8) **"Reasonable medical judgment", a medical judgment that would be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved;**
- (9) "Unborn child", the offspring of human beings from the moment of conception until birth and at every stage of its biological development, including the human conceptus, zygote, morula, blastocyst, embryo, and fetus;
- [(9)] (10) "Viability" or **"viable"**, that stage of fetal development when the life of the unborn child may be continued indefinitely outside the womb by natural or artificial life-supportive systems.

**188.030. ABORTION OF VIABLE UNBORN CHILD PROHIBITED, EXCEPTIONS — PHYSICIAN DUTIES — VIOLATIONS, PENALTY — SEVERABILITY — RIGHT OF INTERVENTION, WHEN. —**

1. **Except in the case of a medical emergency**, no abortion of a viable unborn child shall be performed **or induced** unless [necessary to preserve the life or health of the woman. Before a physician may perform an abortion upon a pregnant woman after such time as her unborn child has become viable, such physician shall first certify in writing that the abortion is necessary to preserve the life or health of the woman and shall further certify in writing the medical indications for such abortion and the probable health consequences.

2. Any physician who performs an abortion upon a woman carrying a viable unborn child shall utilize the available method or technique of abortion most likely to preserve the life and health of the unborn child. In cases where the method or technique of abortion which would most likely preserve the life and health of the unborn child would present a greater risk to the life and health of the woman than another available method or technique, the physician may utilize such other method or technique. In all cases where the physician performs an abortion upon a viable unborn child, the physician shall certify in writing the available method or techniques considered and the reasons for choosing the method or technique employed.

3. An abortion of a viable unborn child shall be performed or induced only when there is in attendance a physician other than the physician performing or inducing the abortion who shall take control of and provide immediate medical care for a child born as a result of the abortion. During the performance of the abortion, the physician performing it, and subsequent to the abortion, the physician required by this section to be in attendance, shall take all reasonable steps in keeping with good medical practice, consistent with the procedure used, to preserve the life and health of the viable unborn child; provided that it does not pose an increased risk to the life or health of the woman.] **the abortion is necessary to preserve the life of the pregnant woman whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself, or when continuation of the pregnancy will create a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman. For purposes of this section, "major bodily function" includes, but is not limited to, functions of the immune**

system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

2. Except in the case of a medical emergency:

(1) Prior to performing or inducing an abortion upon a woman, the physician shall determine the gestational age of the unborn child in a manner consistent with accepted obstetrical and neonatal practices and standards. In making such determination, the physician shall make such inquiries of the pregnant woman and perform or cause to be performed such medical examinations, imaging studies, and tests as a reasonably prudent physician, knowledgeable about the medical facts and conditions of both the woman and the unborn child involved, would consider necessary to perform and consider in making an accurate diagnosis with respect to gestational age.

(2) If the physician determines that the gestational age of the unborn child is twenty weeks or more, prior to performing or inducing an abortion upon the woman, the physician shall determine if the unborn child is viable by using and exercising that degree of care, skill, and proficiency commonly exercised by a skillful, careful, and prudent physician. In making this determination of viability, the physician shall perform or cause to be performed such medical examinations and tests as are necessary to make a finding of the gestational age, weight, and lung maturity of the unborn child and shall enter such findings and determination of viability in the medical record of the woman.

(3) If the physician determines that the gestational age of the unborn child is twenty weeks or more, and further determines that the unborn child is not viable and performs or induces an abortion upon the woman, the physician shall report such findings and determinations and the reasons for such determinations to the health care facility in which the abortion is performed and to the state board of registration for the healing arts, and shall enter such findings and determinations in the medical records of the woman and in the individual abortion report submitted to the department under section 188.052.

(4) (a) If the physician determines that the unborn child is viable, the physician shall not perform or induce an abortion upon the woman unless the abortion is necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy will create a serious risk of substantial and irreversible physical impairment of a major bodily function of the woman.

(b) Before a physician may proceed with performing or inducing an abortion upon a woman when it has been determined that the unborn child is viable, the physician shall first certify in writing the medical threat posed to the life of the pregnant woman, or the medical reasons that continuation of the pregnancy would cause a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman. Upon completion of the abortion, the physician shall report the reasons and determinations for the abortion of a viable unborn child to the health care facility in which the abortion is performed and to the state board of registration for the healing arts, and shall enter such findings and determinations in the medical record of the woman and in the individual abortion report submitted to the department under section 188.052.

(c) Before a physician may proceed with performing or inducing an abortion upon a woman when it has been determined that the unborn child is viable, the physician who is to perform the abortion shall obtain the agreement of a second physician with knowledge of accepted obstetrical and neonatal practices and standards who shall concur that the abortion is necessary to preserve the life of the pregnant woman, or that continuation of the pregnancy would cause a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman. This second physician shall also report such reasons and determinations to the health care facility in which the abortion is to be performed and to the state board of registration for the healing arts, and shall enter such findings and determinations in the medical record of the woman and the individual

abortion report submitted to the department under section 188.052. The second physician shall not have any legal or financial affiliation or relationship with the physician performing or inducing the abortion, except that such prohibition shall not apply to physicians whose legal or financial affiliation or relationship is a result of being employed by or having staff privileges at the same hospital as the term "hospital" is defined in section 197.020.

(d) Any physician who performs or induces an abortion upon a woman when it has been determined that the unborn child is viable shall utilize the available method or technique of abortion most likely to preserve the life or health of the unborn child. In cases where the method or technique of abortion most likely to preserve the life or health of the unborn child would present a greater risk to the life or health of the woman than another legally permitted and available method or technique, the physician may utilize such other method or technique. In all cases where the physician performs an abortion upon a viable unborn child, the physician shall certify in writing the available method or techniques considered and the reasons for choosing the method or technique employed.

(e) No physician shall perform or induce an abortion upon a woman when it has been determined that the unborn child is viable unless there is in attendance a physician other than the physician performing or inducing the abortion who shall take control of and provide immediate medical care for a child born as a result of the abortion. During the performance of the abortion, the physician performing it, and subsequent to the abortion, the physician required to be in attendance, shall take all reasonable steps in keeping with good medical practice, consistent with the procedure used, to preserve the life or health of the viable unborn child; provided that it does not pose an increased risk to the life of the woman or does not pose an increased risk of substantial and irreversible physical impairment of a major bodily function of the woman.

3. Any person who knowingly performs or induces an abortion of an unborn child in violation of the provisions of this section is guilty of a class C felony, and upon a finding of guilt or plea of guilty, shall be imprisoned for a term of not less than one year, and, notwithstanding the provisions of section 560.011, shall be fined not less than ten thousand nor more than fifty thousand dollars.

4. Any physician who pleads guilty to or is found guilty of performing or inducing an abortion of an unborn child in violation of this section shall be subject to suspension or revocation of his or her license to practice medicine in the state of Missouri by the state board of registration for the healing arts under the provisions of sections 334.100 and 334.103.

5. Any hospital licensed in the state of Missouri that knowingly allows an abortion of an unborn child to be performed or induced in violation of this section may be subject to suspension or revocation of its license under the provisions of section 197.070.

6. Any ambulatory surgical center licensed in the state of Missouri that knowingly allows an abortion of an unborn child to be performed or induced in violation of this section may be subject to suspension or revocation of its license under the provisions of section 197.220.

7. A woman upon whom an abortion is performed or induced in violation of this section shall not be prosecuted for a conspiracy to violate the provisions of this section.

8. Nothing in this section shall be construed as creating or recognizing a right to abortion, nor is it the intention of this section to make lawful any abortion that is currently unlawful.

9. It is the intent of the legislature that this section be severable as noted in section 1.140. In the event that any section, subsection, subdivision, paragraph, sentence, or clause of this section be declared invalid under the Constitution of the United States or the Constitution of the State of Missouri, it is the intent of the legislature that the remaining

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provisions of this section remain in force and effect as far as capable of being carried into execution as intended by the legislature.

10. The general assembly may, by concurrent resolution, appoint one or more of its members who sponsored or co-sponsored this act in his or her official capacity, to intervene as a matter of right in any case in which the constitutionality of this law is challenged.

[188.029. **PHYSICIAN, DETERMINATION OF VIABILITY, DUTIES.** — Before a physician performs an abortion on a woman he has reason to believe is carrying an unborn child of twenty or more weeks gestational age, the physician shall first determine if the unborn child is viable by using and exercising that degree of care, skill, and proficiency commonly exercised by the ordinarily skillful, careful, and prudent physician engaged in similar practice under the same or similar conditions. In making this determination of viability, the physician shall perform or cause to be performed such medical examinations and tests as are necessary to make a finding of the gestational age, weight, and lung maturity of the unborn child and shall enter such findings and determination of viability in the medical record of the mother.]

No action taken by Governor, bill becomes law pursuant to Article III, Section 31, of the Missouri Constitution.

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## HB 214 [SCS HCS HB 214]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

### Changes the laws regarding human trafficking

AN ACT to repeal sections 566.200, 566.203, 566.206, 566.209, 566.212, 566.213, 566.218, and 566.223, RSMo, and to enact in lieu thereof eight new sections relating to human trafficking, with penalty provisions.

#### SECTION

- A. Enacting clause.
- 566.200. Definitions.
- 566.203. Abusing an individual through forced labor — penalty.
- 566.206. Trafficking for the purpose of slavery, involuntary servitude, peonage, or forced labor — penalty.
- 566.209. Trafficking for the purpose of sexual exploitation — penalty.
- 566.212. Sexual trafficking of a child — penalty.
- 566.213. Sexual trafficking of a child under age twelve — affirmative defense not allowed, when — penalty.
- 566.218. Restitution required for certain offenders.
- 566.223. Federal Trafficking Victims Protection Act of 2000 to apply, when — affirmative defense — procedures to identify victims, training on protocols.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 566.200, 566.203, 566.206, 566.209, 566.212, 566.213, 566.218, and 566.223, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 566.200, 566.203, 566.206, 566.209, 566.212, 566.213, 566.218, and 566.223, to read as follows:

**566.200. DEFINITIONS.** — As used in sections 566.200 to 566.221, the following terms shall mean:

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(1) "Basic rights information", information applicable to a noncitizen, including but not limited to information about human rights, immigration, emergency assistance and resources, and the legal rights and resources for victims of domestic violence;

(2) **"Blackmail", any threat to reveal damaging or embarrassing information about a person to that person's spouse, family, associates, or the public at large, including a threat to expose any secret tending to subject any person to hatred, contempt, or ridicule;**

(3) "Client", a person who is a resident of the United States and the state of Missouri and who contracts with an international marriage broker to meet recruits;

(4) **"Coercion":**

(a) **Threats of serious harm to or physical restraint against any person;**

(b) **Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person;**  
**or**

(c) **The abuse or threatened abuse of the legal process;**

[(3)] (5) "Commercial sex act", any sex act on account of which anything of value is given to, **promised**, or received by any person;

[(4)] (6) "Criminal history record information", criminal history record information, including information provided in a criminal background check, obtained from the Missouri state highway patrol and the Federal Bureau of Investigation;

(7) **"Financial harm", detriment, injury, or loss of a financial nature, including credit extortion, criminal violation of the usury laws under chapter 408, or employment contracts that violate the statute of frauds provisions under chapter 432;**

[(5)] (8) "International marriage broker":

(a) A corporation, partnership, business, individual, or other legal entity, whether or not organized under any law of the United States or any other state, that charges fees to residents of Missouri for providing dating, matrimonial, or social referrals or matching services between United States citizens or residents and nonresident aliens by providing information or a forum that would permit individuals to contact each other. Such contact shall include, but is not limited to:

a. Providing the name, telephone number, postal address, electronic mail address, or voice message mailbox of an individual, or otherwise facilitating communication between individuals;

**or**

b. Providing an opportunity for an in-person meeting;

(b) Such term shall not include:

a. A traditional matchmaking organization of a religious nature that operates on a nonprofit basis and otherwise operates in compliance with the laws of the countries in which it operates, including the laws of the United States;

b. An entity that provides dating services between United States citizens or residents and other individuals who may be aliens, but does not do so as its principal business, and charges comparable rates to all individuals it serves regardless of the gender or country of citizenship or residence of the individual; or

c. An organization that does not charge a fee to any party for the services provided;

[(6)] (9) "Involuntary servitude or forced labor", a condition of servitude induced by means of:

(a) Any scheme, plan, or pattern of behavior intended to cause a person to believe that, if the person does not enter into or continue the servitude, such person or another person will suffer [substantial bodily harm] **serious physical injury** or physical restraint; or

(b) The abuse or threatened abuse of the legal process;

[(7)] (10) "Marital history information", a declaration of the person's current marital status, the number of times the person has previously been married, and whether any previous marriages occurred as a result of service from an international marriage broker;

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(11) "Nudity", the showing of the human male or female genitals, pubic area, vulva, anus, or any part of the nipple or areola of the female breast;

[(8)] (12) "Peonage", illegal and involuntary servitude in satisfaction of debt;

[(9)] (13) "Recruit", a noncitizen, nonresident, recruited by an international marriage broker for the purpose of providing dating, matrimonial, or social referral services;

(14) "Sexual conduct", sexual intercourse as defined in section 566.010; deviate sexual intercourse as defined in section 566.010; actual or simulated acts of human masturbation; physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female in an act of apparent sexual stimulation or gratification; or any sadomasochistic abuse or acts including animals or any latent objects in an act of apparent sexual stimulation or gratification;

(15) "Sexual performance", any play, motion picture, still picture, film, videotape, video recording, dance, or exhibition which includes sexual conduct or nudity, performed before an audience of one or more, whether in person or online or through other forms of telecommunication;

(16) "Victim of trafficking", a person who is a victim of offenses under section 566.203, 566.206, 566.209, 566.212, or 566.213.

**566.203. ABUSING AN INDIVIDUAL THROUGH FORCED LABOR — PENALTY. — 1.** A person commits the crime of abusing an individual through forced labor by knowingly providing or obtaining the labor or services of a person:

(1) By [threats of serious harm or physical restraint against such person or another person] **causing or threatening to cause serious physical injury to any person;**

(2) **By physically restraining or threatening to physically restrain another person;**

(3) **By blackmail;**

[(2)] (4) By means of any scheme, plan, or pattern of behavior intended to cause such person to believe that, if the person does not perform the labor services, the person or another person will suffer [substantial bodily harm or] **serious physical injury, physical restraint, or financial harm;** or

[(3)] (5) By means of the abuse or threatened abuse of the law or the legal process.

2. A person who pleads guilty to or is found guilty of the crime of abuse through forced labor shall not be required to register as a sexual offender pursuant to the provisions of section 589.400, unless such person is otherwise required to register pursuant to the provisions of such section.

3. The crime of abuse through forced labor is a [class B] felony **punishable by imprisonment for a term of years not less than five years and not more than twenty years and a fine not to exceed two hundred and fifty thousand dollars. If death results from a violation of this section, or if the violation includes kidnapping or an attempt to kidnap, sexual abuse when punishable as a class B felony, or an attempt to commit sexual abuse when punishable as a class B felony, or an attempt to kill, it shall be punishable for a term of years not less than five years or life and a fine not to exceed two hundred and fifty thousand dollars.**

**566.206. TRAFFICKING FOR THE PURPOSE OF SLAVERY, INVOLUNTARY SERVITUDE, PEONAGE, OR FORCED LABOR — PENALTY. — 1.** A person commits the crime of trafficking for the purposes of slavery, involuntary servitude, peonage, or forced labor if a person knowingly recruits, entices, harbors, transports, provides, or obtains by any means, **including but not limited to, through the use of force, abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause financial harm,** another person for labor or services, for the purposes of slavery, involuntary servitude, peonage, or forced labor, **or benefits, financially or by receiving anything of value, from participation in such activities.**

2. A person who pleads guilty to or is found guilty of the crime of trafficking for the purposes of slavery, involuntary servitude, peonage, or forced labor shall not be required to register as a sexual offender pursuant to the provisions of section 589.400, unless such person is otherwise required to register pursuant to the provisions of such section.

3. [The crime of] **Except as provided in subsection 4 of this section**, trafficking for the purposes of slavery, involuntary servitude, peonage, or forced labor is a [class B] felony **punishable by imprisonment for a term of years not less than five years and not more than twenty years and a fine not to exceed two hundred and fifty thousand dollars.**

4. **If death results from a violation of this section, or if the violation includes kidnapping or an attempt to kidnap, sexual abuse when punishable as a class B felony or an attempt to commit sexual abuse when the sexual abuse attempted is punishable as a class B felony, or an attempt to kill, it shall be punishable by imprisonment for a term of years not less than five years or life and a fine not to exceed two hundred and fifty thousand dollars.**

**566.209. TRAFFICKING FOR THE PURPOSE OF SEXUAL EXPLOITATION — PENALTY. —**

1. A person commits the crime of trafficking for the purposes of sexual exploitation if a person knowingly recruits, **entices, harbors**, transports, provides, or obtains by any means, **including but not limited to, through the use of force, abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause financial harm**, another person for the use or employment of such person in sexual conduct [as defined in section 556.061] , **a sexual performance, or the production of explicit sexual material as defined in section 573.010**, without his or her consent, or benefits, financially or by receiving anything of value, **from participation in such activities.**

2. The crime of trafficking for the purposes of sexual exploitation is a [class B] felony **punishable by imprisonment for a term of years not less than five years and not more than twenty years and a fine not to exceed two hundred and fifty thousand dollars. If a violation of this section was effected by force, abduction, or coercion, the crime of trafficking for the purposes of sexual exploitation is a felony punishable by imprisonment for a term of years not less than ten years or life and a fine not to exceed two hundred and fifty thousand dollars.**

**566.212. SEXUAL TRAFFICKING OF A CHILD — PENALTY. —** 1. A person commits the crime of sexual trafficking of a child if the individual knowingly:

(1) Recruits, entices, harbors, transports, provides, or obtains by any means, **including but not limited to, through the use of force, abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause financial harm**, a person under the age of eighteen to participate in a commercial sex act, **a sexual performance, or the production of explicit sexual material as defined in section 573.010**, or benefits, financially or by receiving anything of value, from participation in such activities; or

(2) Causes a person under the age of eighteen to engage in a commercial sex act, **a sexual performance, or the production of explicit sexual material as defined in section 573.010.**

2. It shall not be [an affirmative] **a defense that the defendant believed that the person was eighteen years of age or older.**

3. [The crime of] Sexual trafficking of a child is a [class A] felony **punishable by imprisonment for a term of years not less than ten years or life and a fine not to exceed two hundred fifty thousand dollars if the child is under the age of eighteen. If a violation of this section was effected by force, abduction, or coercion, the crime of sexual trafficking of a child shall be a felony for which the authorized term of imprisonment is life imprisonment**

without eligibility for probation or parole until the defendant has served not less than twenty-five years of such sentence.

**566.213. SEXUAL TRAFFICKING OF A CHILD UNDER AGE TWELVE — AFFIRMATIVE DEFENSE NOT ALLOWED, WHEN — PENALTY. —** 1. A person commits the crime of sexual trafficking of a child under the age of twelve if the individual knowingly:

(1) Recruits, entices, harbors, transports, provides, or obtains by any means, **including but not limited to, through the use of force, abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause financial harm**, a person under the age of twelve to participate in a commercial sex act, **a sexual performance, or the production of explicit sexual material as defined in section 573.010**, or benefits, financially or by receiving anything of value, from participation in such activities; or

(2) Causes a person under the age of twelve to engage in a commercial sex act, **a sexual performance, or the production of explicit sexual material as defined in section 573.010**.

2. It shall not be [an affirmative] a defense that the defendant believed that the person was twelve years of age or older.

3. Sexual trafficking of a child less than twelve years of age shall be a felony for which the authorized term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than twenty-five years of such sentence. Subsection 4 of section 558.019 shall not apply to the sentence of a person who has pleaded guilty to or been found guilty of sexual trafficking of a child less than twelve years of age, and "life imprisonment" shall mean imprisonment for the duration of a person's natural life for the purposes of this section.

**566.218. RESTITUTION REQUIRED FOR CERTAIN OFFENDERS. — Notwithstanding sections 557.011, 558.019, and 559.021, a court sentencing [an offender] a defendant convicted of violating the provisions of [sections] section 566.203, 566.206, 566.209, 566.212, [and 566.215] or 566.213 shall order the [offender] defendant to pay restitution to the victim of the offense regardless of whether the defendant is sentenced to a term of imprisonment or probation. The minimum restitution ordered by the court shall be in the amount determined by the court necessary to compensate the victim for the value of the victim's labor and/or for the mental and physical rehabilitation of the victim and any child of the victim.**

**566.223. FEDERAL TRAFFICKING VICTIMS PROTECTION ACT OF 2000 TO APPLY, WHEN — AFFIRMATIVE DEFENSE — PROCEDURES TO IDENTIFY VICTIMS, TRAINING ON PROTOCOLS. —** 1. Any individual who is alleging that a violation of sections 566.200 to 566.221 has occurred against his or her person shall be afforded the rights and protections provided in the federal Trafficking Victims Protection Act of 2000, Public Law 106-386, as amended.

2. It is an affirmative defense for the offense of prostitution under section 567.020 that the defendant engaged in the conduct charged to constitute an offense because he or she was coerced to do so by the use of, or threatened use of, unlawful physical force upon himself or herself or a third person, which force or threatened force a person of reasonable firmness in his or her situation would have been unable to resist.

3. The department of public safety is authorized to establish procedures for identifying victims of trafficking under sections 566.200 to 566.223. The department may establish training programs as well as standard protocols for appropriate agencies to educate officials and employees on state statutes and federal laws regulating human trafficking and with the identification and assistance of victims of human trafficking. Such agencies may include but not be limited to state employees and contractors, including the children's division of the department of social services, juvenile courts, state law

enforcement agencies, health care professionals, and runaway and homeless youth shelter administrators.

4. As soon as possible after a first encounter with a person who reasonably appears to a law enforcement agency to be a victim of trafficking as defined in section 566.200, that agency or office shall notify the department of social services and, where applicable, juvenile justice authorities, that the person may be a victim of trafficking, in order that such agencies may determine whether the person may be eligible for state or federal services, programs, or assistance.

5. The department of social services may coordinate with relevant state, federal, and local agencies to evaluate appropriate services for victims of trafficking. State agencies may implement programs and enter into contracts with nonprofit agencies, domestic and sexual violence shelters, and other nongovernment organizations to provide services to confirmed victims of trafficking, insofar as funds are available for that purpose. Such services may include, but are not limited to, case management, emergency temporary housing, health care, mental health counseling, alcohol and drug addiction screening and treatment, language interpretation and translation services, English language instruction, job training, and placement assistance.

6. A victim of trafficking may bring a civil action against a person or persons who plead guilty to or are found guilty of a violation of section 566.203, 566.206, 566.209, 566.212, or 566.213, to recover the actual damages sustained by the victim, court costs, including reasonable attorney's fees, and punitive damages, when determined to be appropriate by the court. Any action commenced under this section shall be filed within ten years after the later of:

- (1) The final order in the related criminal case;
- (2) The victim's emancipation from the defendant; or
- (3) The victim's eighteenth birthday.

7. The attorney general may bring a civil action, in the circuit court in which the victim of trafficking was found, to recover from any person or entity that benefits, financially or by receiving anything of value, from violations of section 566.203, 566.206, 566.209, 566.212, or 566.213, a civil penalty of not more than fifty thousand dollars for each violation of section 566.203, 566.206, 566.209, 566.212, or 566.213, and injunctive and other equitable relief as the court may, in its discretion, order. The first priority of any money or property collected under such an action shall be to pay restitution to the victims of trafficking on whose behalf the civil action was brought.

Approved July 12, 2011

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## HB 217 [HB 217]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Allows an election authority to use an electronic voter identification system or electronic signature pad to verify voter identification information at any polling place**

AN ACT to amend chapter 115, RSMo, by adding thereto one new section relating to electronic voter identification verification systems.

### SECTION

A. Enacting clause.

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115.230. Voter verification, electronic system or pad authorized.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Chapter 115, RSMo, is amended by adding thereto one new section, to be known as section 115.230, to read as follows:

**115.230. VOTER VERIFICATION, ELECTRONIC SYSTEM OR PAD AUTHORIZED.** — Notwithstanding any other provision of law to the contrary, any election authority may use an electronic voter identification system or an electronic signature pad to verify a voter's address, registration status, and signature information at any polling place. Any such system or pad shall be able to read identifying information from an official Missouri driver's license or nondriver's license issued by the department of revenue, and shall be capable of allowing an election authority to manually enter the voter's information from a valid form of personal identification containing the voter's signature.

Approved July 8, 2011

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HB 220 [HCS HB 220]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Specifies that the ordering of a report or an inspection alone will not constitute selecting or engaging a person regarding a real estate licensee's immunity from liability for certain expert statements**

AN ACT to repeal section 339.190, RSMo, and to enact in lieu thereof one new section relating to real estate licensees.

SECTION

- A. Enacting clause.  
339.190. Real estate licensee, immunity from liability, when.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Section 339.190, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 339.190, to read as follows:

**339.190. REAL ESTATE LICENSEE, IMMUNITY FROM LIABILITY, WHEN.** — 1. A real estate licensee shall be immune from liability for statements made by engineers, land surveyors, geologists, environmental hazard experts, wood-destroying inspection and control experts, termite inspectors, mortgage brokers, home inspectors, or other home inspection experts unless:

- (1) The statement was made by a person employed by the licensee or the broker with whom the licensee is associated;
- (2) The person making the statement was selected by and engaged by the licensee. **For purposes of this section, the ordering of a report or inspection alone shall not constitute selecting or engaging a person;** or
- (3) The licensee knew prior to closing that the statement was false or the licensee acted in reckless disregard as to whether the statement was true or false.

2. A real estate licensee shall not be the subject of any action and no action shall be instituted against a real estate licensee for any information contained in a seller's disclosure for residential, commercial, industrial, farm, or vacant real estate furnished to a buyer, unless the real estate licensee is a signatory to such or the licensee knew prior to closing that the statement was false or the licensee acted in reckless disregard as to whether the statement was true or false.

3. A real estate licensee acting as a courier of documents referenced in this section shall not be considered to be making the statements contained in such documents.

Approved July 7, 2011

HB 223 [HCS HB 223 & 231]

**EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.**

**Establishes the Nursing Education Incentive Program and authorizes a nonrenewable advanced placement grant to certain recipients of financial aid under the A+ Schools or Access Missouri programs**

AN ACT to repeal sections 335.036, 335.200, 335.203, 335.206, and 335.209, RSMo, and to enact in lieu thereof four new sections relating to higher education financial assistance programs.

SECTION

- A. Enacting clause.
- 173.1350. Grants authorized, amount, eligibility.
- 335.036. Duties of board — fees set, how — fund, source, use, funds transferred from, when — rulemaking.
- 335.200. Nurse education incentive grants — definitions.
- 335.203. Nursing education incentive program established — grants authorized, limit, eligibility — administration — rulemaking authority.
- 335.206. Nurse training incentive fund — grants — amounts.
- 335.209. Administrative rules — procedure.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 335.036, 335.200, 335.203, 335.206, and 335.209, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 173.1350, 335.036, 335.200, and 335.203, to read as follows:

**173.1350. GRANTS AUTHORIZED, AMOUNT, ELIGIBILITY.** — Subject to appropriation, the department of higher education shall make available a nonrenewable "Advanced Placement Incentive Grant" of five hundred dollars to any student who receives an award under the access Missouri financial assistance program established in sections 173.1101 to 173.1107, or the A+ schools program established under section 160.545, and in addition has received two grades of three or higher on advanced placement examinations in the fields of mathematics or science while attending a Missouri public high school.

**335.036. DUTIES OF BOARD — FEES SET, HOW — FUND, SOURCE, USE, FUNDS TRANSFERRED FROM, WHEN — RULEMAKING.** — 1. The board shall:

(1) Elect for a one-year term a president and a secretary, who shall also be treasurer, and the board may appoint, employ and fix the compensation of a legal counsel and such board personnel as defined in subdivision (4) of subsection 10 of section 324.001 as are necessary to administer the provisions of sections 335.011 to 335.096;



(2) Adopt and revise such rules and regulations as may be necessary to enable it to carry into effect the provisions of sections 335.011 to 335.096;

(3) Prescribe minimum standards for educational programs preparing persons for licensure pursuant to the provisions of sections 335.011 to 335.096;

(4) Provide for surveys of such programs every five years and in addition at such times as it may deem necessary;

(5) Designate as "approved" such programs as meet the requirements of sections 335.011 to 335.096 and the rules and regulations enacted pursuant to such sections; and the board shall annually publish a list of such programs;

(6) Deny or withdraw approval from educational programs for failure to meet prescribed minimum standards;

(7) Examine, license, and cause to be renewed the licenses of duly qualified applicants;

(8) Cause the prosecution of all persons violating provisions of sections 335.011 to 335.096, and may incur such necessary expenses therefor;

(9) Keep a record of all the proceedings; and make an annual report to the governor and to the director of the department of insurance, financial institutions and professional registration;

(10) Establish an impaired nurse program.

2. The board shall set the amount of the fees which this chapter authorizes and requires by rules and regulations. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.

3. All fees received by the board pursuant to the provisions of sections 335.011 to 335.096 shall be deposited in the state treasury and be placed to the credit of the state board of nursing fund. All administrative costs and expenses of the board shall be paid from appropriations made for those purposes. **The board is authorized to provide funding for the nursing education incentive program established in sections 335.200 to 335.203.**

4. The provisions of section 33.080 to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule, permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

5. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this chapter shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

**335.200. NURSE EDUCATION INCENTIVE GRANTS — DEFINITIONS.** — As used in sections 335.200 to [335.209] **335.203**, the following terms mean:

(1) "Board", the [Missouri coordinating board for higher education] **state board of nursing**;

(2) "**Department**", the **Missouri department of higher education**;

(3) "Eligible [nursing program] **institution of higher education**", a **Missouri institution of higher education accredited by the higher learning commission of the north central association which offers a nursing education program [accredited under this chapter]**;

[(3) "Fund", the nurse training incentive fund, established in section 335.203;]

(4) "[Incentive] Grant", a grant awarded to [a nurse education program] **an eligible institution of higher education** under the guidelines set forth in sections **335.200 to 335.203** [to 335.209;

(5) "Nontraditional student", a person admitted to an eligible nursing program that is older than twenty-two years of age at the time he is admitted to the nursing program;

(6) "Nurse", a person holding a license as a registered nurse, pursuant to this chapter; and

(7) "Professional nursing education program", a program of education accredited by the state board of nursing, pursuant to this chapter, designed to prepare persons for licensure as registered professional nurses with an enrollment of no less than sixty-five percent of the enrollment approved by the state board of nursing].

**335.203. NURSING EDUCATION INCENTIVE PROGRAM ESTABLISHED — GRANTS AUTHORIZED, LIMIT, ELIGIBILITY — ADMINISTRATION — RULEMAKING AUTHORITY.** — [The "Nurse Training Incentive Fund" is hereby established in the state treasury. The fund shall be administered by the coordinating board for higher education. The board shall base its appropriation request on enrollment, graduation and licensure figures for the previous year. The board may accept funds from private, federal and other sources for the purposes of sections 335.200 to 335.209. All appropriations, private donations, and other funds provided to the board for the implementation of sections 335.200 to 335.209 shall be placed in the nurse training incentive fund. Notwithstanding the provisions of section 33.080 to the contrary, funds in the nurse training incentive fund shall not revert to the general revenue fund. Interest accruing to the fund shall be part of the fund. Grants provided pursuant to section 335.206 shall be made within the amounts appropriated therefor.] **1. There is hereby established the "Nursing Education Incentive Program" within the department of higher education.**

**2. Subject to appropriation, grants shall be awarded through the nursing education incentive program to eligible institutions of higher education based on criteria jointly determined by the board and the department. Grant award amounts shall not exceed one hundred fifty thousand dollars. No campus shall receive more than one grant per year.**

**3. To be considered for a grant, an eligible institution of higher education shall offer a program of nursing that meets the predetermined category and area of need as established by the board and the department under subsection 4 of this section.**

**4. The board and the department shall determine categories and areas of need for designating grants to eligible institutions of higher education. In establishing categories and areas of need, the board and department may consider criteria including, but not limited to:**

**(1) Data generated from licensure renewal data and the department of health and senior services; and**

**(2) National nursing statistical data and trends that have identified nursing shortages.**

**5. The department shall be the administrative agency responsible for implementation of the program established under sections 335.200 to 335.203, and shall promulgate reasonable rules for the exercise of its functions and the effectuation of the purposes of sections 335.200 to 335.203. The department shall, by rule, prescribe the form, time, and method of filing applications and shall supervise the processing of such applications.**

**6. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**

**grant of rulemaking authority and any rule proposed or adopted after August 28, 2011, shall be invalid and void.**

**[335.206. NURSE TRAINING INCENTIVE FUND — GRANTS — AMOUNTS. — 1.**

The nurse training incentive fund shall, upon appropriation, be used to provide incentive grants to eligible nursing programs which increase enrollment. Grants shall not be awarded to classes begun on or after July 1, 1996.

2. Grants shall be awarded to eligible nursing programs which increase enrollment pursuant to subsection 3 of this section. Eligible programs receiving grants provided under sections 335.200 to 335.209 shall monitor the enrollment of nontraditional students in their program and shall annually report to the board the number of nontraditional students enrolled therein. It shall be the intent of sections 335.200 to 335.209 to encourage the enrollment and graduation of nontraditional students in nursing education programs.

3. Incentive grants shall be awarded to professional nurse education programs, as follows:

(1) A grant of eight thousand dollars for each entering class of ten students by which the program increases its enrollment over the number of entering students admitted in the fall of 1989; and

(2) A grant of four hundred dollars for each student from each entering class cited in subdivision (1) of this section by which the program increases its number of graduates over the number of students graduated in the preceding year; or

(3) Beginning with the first graduating class of the classes which enter and are enrolled after August 28, 1990, a grant of four hundred dollars for each student by which the program increases its number of graduates over the number of graduates of the preceding year, if the program is not otherwise qualified to receive the grant provided pursuant to subdivision (1) of this section.]

**[335.209. ADMINISTRATIVE RULES — PROCEDURE. —** No rule or portion of a rule promulgated under the authority of sections 335.200 to 335.209 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.]

Approved June 16, 2011

HB 229 [HB 229]

**EXPLANATION —** Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Changes the laws regarding the Public School Retirement System of Kansas City**

AN ACT to repeal sections 169.270, 169.280, 169.301, 169.324, and 169.328, RSMo, and to enact in lieu thereof five new sections relating to school retirement systems.

**SECTION**

- A. Enacting clause.
- 169.270. Definitions.
- 169.280. Retirement system created — system, how managed — federal qualified plan, intent as, administration of plan, effect on.
- 169.301. Retirement benefits to vest, when — amount, how computed — option of certain members to transfer plans, requirements — retirant becoming active member, effect on benefits — termination of system, effect of — military service, effect of.

- 169.324. Retirement allowances, minimum amounts — retirants may substitute without affecting allowance, limitation — annual determination of ability to provide benefits, standards — action plan for use of minority and women money managers, brokers and investment counselors.
- 169.328. Accumulated contributions returned to member, when — eligible rollover distributions, election for distribution.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 169.270, 169.280, 169.301, 169.324, and 169.328, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 169.270, 169.280, 169.301, 169.324, and 169.328, to read as follows:

**169.270. DEFINITIONS.** — Unless a different meaning is clearly required by the context, the following words and phrases as used in sections 169.270 to 169.400 shall have the following meanings:

- (1) "Accumulated contributions", the sum of all amounts deducted from the compensation of a member or paid on behalf of the member by the employer and credited to the member's individual account together with interest thereon in the employees' contribution fund. The board of trustees shall determine the rate of interest allowed thereon as provided for in section 169.295;
- (2) "Actuarial equivalent", a benefit of equal value when computed upon the basis of formulas and/or tables which have been approved by the board of trustees. **The formulas and tables in effect at any time shall be set forth in a written document which shall be maintained at the offices of the retirement system and treated for all purposes as part of the documents governing the retirement system established by section 169.280. The formulas and tables may be changed from time to time if recommended by the retirement system's actuary and approved by the board of trustees;**
- (3) "Average final compensation", the highest average annual compensation received for any four consecutive years of service. In determining whether years of service are "consecutive", only periods for which creditable service is earned shall be considered, and all other periods shall be disregarded;
- (4) "Beneficiary", any person designated by a member for a retirement allowance or other benefit as provided by sections 169.270 to 169.400;
- (5) "Board of education", the board of directors or corresponding board, by whatever name, having charge of the public schools of the school district in which the retirement system is established;
- (6) "Board of trustees", the board provided for in section 169.291 to administer the retirement system;
- (7) "Break in service", an occurrence when a regular employee ceases to be a regular employee for any reason other than retirement (including termination of employment, resignation, or furlough but not including vacation, sick leave, excused absence or leave of absence granted by an employer) and such person does not again become a regular employee until after sixty consecutive calendar days have elapsed, or after fifteen consecutive school or work days have elapsed, whichever occurs later. A break in service also occurs when a regular employee retires under the retirement system established by section 169.280 and does not again become a regular employee until after fifteen consecutive school or work days have elapsed. A "school or work day" is a day on which the employee's employer requires (or if the position no longer exists, would require, based on past practice) employees having the former employee's last job description to report to their place of employment for any reason;
- (8) "Charter school", any charter school established pursuant to sections 160.400 to 160.420 and located, at the time it is established, within the school district;
- (9) "Compensation", the regular compensation as shown on the salary and wage schedules of the employer, including any amounts paid by the employer on a member's behalf pursuant to

subdivision (5) of subsection 1 of section 169.350, but such term is not to include extra pay, overtime pay, consideration for entering into early retirement, or any other payments not included on salary and wage schedules. For any year beginning after December 31, 1988, the annual compensation of each member taken into account under the retirement system shall not exceed the limitation set forth in Section 401(a)(17) of the Internal Revenue Code of 1986, as amended;

(10) "Creditable service", the amount of time that a regular employee is a member of the retirement system and makes contributions thereto in accordance with the provisions of sections 169.270 to 169.400;

(11) "Employee", any person who is classified by the school district, a charter school, the library district or the retirement system established by section 169.280 as an employee of such employer and is reported contemporaneously for federal and state tax purposes as an employee of such employer. A person is not considered to be an employee for purposes of such retirement system with respect to any service for which the person was not reported contemporaneously for federal and state tax purposes as an employee of such employer, regardless of whether the person is or may later be determined to be or to have been a common law employee of such employer, including but not limited to a person classified by the employer as independent contractors and persons employed by other entities which contract to provide staff and services to the employer. In no event shall a person reported for federal tax purposes as an employee of a private, for-profit entity be deemed to be an employee eligible to participate in the retirement system established by section 169.280 with respect to such employment;

(12) "Employer", the school district, any charter school, the library district, or the retirement system established by section 169.280, or any combination thereof, as required by the context to identify the employer of any member, or, for purposes only of subsection 2 of section 169.324, of any retirant;

(13) "Employer's board", the board of education, the governing board of any charter school, the board of trustees of the library district, the board of trustees, or any combination thereof, as required by the context to identify the governing body of an employer;

(14) "Library district", any urban public library district created from or within a school district under the provisions of section 182.703;

(15) "Medical board", the board of physicians provided for in section 169.291;

(16) "Member", any person who is a regular employee after the retirement system has been established hereunder ("active member"), and any person who (i) was an active member, (ii) has vested retirement benefits hereunder, and (iii) is not receiving a retirement allowance hereunder ("inactive member");

(17) "Minimum normal retirement age", the earlier of the date the member attains the age of sixty or the date the member has a total of at least seventy-five credits, with each year of creditable service and each year of age equal to one credit, with both years of creditable service and years of age prorated for fractional years;

(18) "Prior service", service prior to the date the system becomes operative which is creditable in accordance with the provisions of section 169.311. Prior service in excess of thirty-eight years shall be considered thirty-eight years;

(19) "Regular employee", any employee who is assigned to an established position which requires service of not less than twenty-five hours per week, and not less than nine calendar months a year. Any regular employee who is subsequently assigned without break in service to a position demanding less service than is required of a regular employee shall continue the employee's status as a regular employee. Except as stated in the preceding sentence, a temporary, part-time, or furloughed employee is not a regular employee;

(20) "Retirant", a former member receiving a retirement allowance hereunder;

(21) "Retirement allowance", annuity payments to a retirant or to such beneficiary as is entitled to same;

(22) "School district", any school district in which a retirement system shall be established under section 169.280.

**169.280. RETIREMENT SYSTEM CREATED — SYSTEM, HOW MANAGED — FEDERAL QUALIFIED PLAN, INTENT AS, ADMINISTRATION OF PLAN, EFFECT ON.** — 1. In each school district of this state (i) that now has or may hereafter have a population of not more than seven hundred thousand and (ii) not less than seventy percent of whose population resides in a city other than a city not within a county which now has or may hereafter have a population of four hundred thousand or more, according to the latest United States decennial census, there is hereby created and established a retirement system for the purpose of providing retirement allowances and related benefits for employees of the employer. Each such system shall be under the management of a board of trustees herein described, and shall be known as "The Public School Retirement System of (name of school district)", and by such name all of its business shall be transacted, all of its funds invested, and all of its cash and securities and other property held. When a school district first satisfies the foregoing population conditions, the board of education shall adopt a resolution certifying the same and take all actions necessary to cause the retirement system to begin operation on the thirtieth day of September following such certification.

2. In the event that (i) the population of a school district having a retirement system created hereunder should increase to a number greater than seven hundred thousand, or (ii) the population of the city in which not less than seventy percent of the population of the school district resides should decrease to a number less than four hundred thousand, or (iii) less than seventy percent of the population of the school district should reside in a city having a population of at least four hundred thousand, or (iv) the corporate organization of the school district shall lapse in accordance with subsections 1 and 4 of section 162.081, the retirement system of such school district shall continue to be governed by and subject to sections 169.270 to 169.400 and all other statutes, rules, and regulations applicable to retirement systems in school districts having a population of not more than seven hundred thousand and not less than seventy percent of whose population resides in a city, other than a city not within a county, of four hundred thousand or more, as if the population of such school district and city continued to be within such numerical limits.

**3. The plan of retirement benefits administered by the retirement system established hereby is intended to be a qualified plan under the provisions of applicable federal law. The board of trustees shall interpret the statutes governing the retirement system and shall administer the retirement system in all respects consistent with such intent. The assets of the retirement system shall be held in trust for the exclusive benefit of members and their beneficiaries and for defraying reasonable administrative expenses of the retirement system. No part of such assets shall, at any time prior to the satisfaction of all liabilities with respect to members and their beneficiaries, be used for or diverted to any purposes other than for such exclusive benefit or for any purpose inconsistent with the requirements of sections 169.270 to 169.400.**

**169.301. RETIREMENT BENEFITS TO VEST, WHEN — AMOUNT, HOW COMPUTED — OPTION OF CERTAIN MEMBERS TO TRANSFER PLANS, REQUIREMENTS — RETIRANT BECOMING ACTIVE MEMBER, EFFECT ON BENEFITS — TERMINATION OF SYSTEM, EFFECT OF — MILITARY SERVICE, EFFECT OF.** — 1. Any active member who has completed five or more years of actual (not purchased) creditable service shall be entitled to a vested retirement benefit equal to the annual service retirement allowance provided in sections 169.270 to 169.400 payable after attaining the minimum normal retirement age and calculated in accordance with the law in effect on the last date such person was a regular employee; provided, that such member does not withdraw such person's accumulated contributions pursuant to section 169.328 prior to attaining the minimum normal retirement age.

2. Any member who elected on October 13, 1961, or within thirty days thereafter, to continue to contribute and to receive benefits under sections 169.270 to 169.400 may continue to be a member of the retirement system under the terms and conditions of the plan in effect immediately prior to October 13, 1961, or may, upon written request to the board of trustees, transfer to the present plan, provided that the member pays into the system any additional contributions with interest the member would have credited to the member's account if such person had been a member of the current plan since its inception or, if the person's contributions and interest are in excess of what the person would have paid, such person will receive a refund of such excess. The board of trustees shall adopt appropriate rules and regulations governing the operation of the plan in effect immediately prior to October 13, 1961.

3. Should a retirant again become an active member, such person's retirement allowance payments shall cease during such membership and shall be recalculated upon subsequent retirement to include any creditable service earned during the person's latest period of active membership in accordance with subsection 2 of section 169.324.

**4. In the event of the complete termination of the retirement system established by section 169.280 or the complete discontinuance of contributions to such retirement system, the rights of all members to benefits accrued to the date of such termination or discontinuance, to the extent then funded, shall be fully vested and nonforfeitable.**

**5. If a member leaves employment with an employer to perform qualified military service, as defined in Section 414(u) of the Internal Revenue Code of 1986, as amended, and dies while in such service, the member's survivors shall be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) that would have been provided had the member resumed employment with the employer and then terminated on account of death in accordance with the requirements of Sections 407(a)(37) and 414(u) of the Internal Revenue Code of 1986, as amended. In such event, the member's period of qualified military services shall be counted as creditable service for purposes of vesting but not for purposes of determining the amount of the member's retirement allowance.**

**169.324. RETIREMENT ALLOWANCES, MINIMUM AMOUNTS — RETIRANTS MAY SUBSTITUTE WITHOUT AFFECTING ALLOWANCE, LIMITATION — ANNUAL DETERMINATION OF ABILITY TO PROVIDE BENEFITS, STANDARDS — ACTION PLAN FOR USE OF MINORITY AND WOMEN MONEY MANAGERS, BROKERS AND INVESTMENT COUNSELORS. — 1.** The annual service retirement allowance payable pursuant to section 169.320 in equal monthly installments for life shall be the retirant's number of years of creditable service multiplied by one and three-fourths percent of the person's average final compensation, subject to a maximum of sixty percent of the person's average final compensation. For any member who retires as an active member on or after June 30, 1999, the annual service retirement allowance payable pursuant to section 169.320 in equal monthly installments for life shall be the retirant's number of years of creditable service multiplied by two percent of the person's average final compensation, subject to a maximum of sixty percent of the person's average final compensation. Any member whose number of years of creditable service is greater than thirty-four and one-quarter on August 28, 1993, shall receive an annual service retirement allowance payable pursuant to section 169.320 in equal monthly installments for life equal to the retirant's number of years of creditable service as of August 28, 1993, multiplied by one and three-fourths percent of the person's average final compensation but shall not receive a greater annual service retirement allowance based on additional years of creditable service after August 28, 1993. Provided, however, that, effective January 1, 1996, any retiree who retired on, before or after January 1, 1996, with at least twenty years of creditable service shall receive at least three hundred dollars each month as a retirement allowance, or the actuarial equivalent thereof if the retiree elected any of the options available under section 169.326. Provided, further, any retiree who retired with at least ten years of creditable service shall receive

at least one hundred fifty dollars each month as a retirement allowance, plus fifteen dollars for each additional full year of creditable service greater than ten years but less than twenty years (or the actuarial equivalent thereof if the retiree elected any of the options available under section 169.326). Any beneficiary of a deceased retiree who retired with at least ten years of creditable service and elected one of the options available under section 169.326 shall also be entitled to the actuarial equivalent of the minimum benefit provided by this subsection, determined from the option chosen.

2. Except as otherwise provided in sections 169.331, 169.580 and 169.585, payment of a retirant's retirement allowance will be suspended for any month for which such person receives remuneration from the person's employer or from any other employer in the retirement system established by section 169.280 for the performance of services except any such person other than a person receiving a disability retirement allowance under section 169.322 may serve as a nonregular substitute, part-time or temporary employee for not more than six hundred hours in any school year without becoming a member and without having the person's retirement allowance discontinued, **provided that through such substitute, part-time, or temporary employment, the person may earn no more than fifty percent of the annual salary or wages the person was last paid by the employer before the person retired and commenced receiving a retirement allowance, adjusted for inflation. If a person exceeds such hours limit or such compensation limit, payment of the person's retirement allowance shall be suspended for the month in which such limit was exceeded and each subsequent month in the school year for which the person receives remuneration from any employer in the retirement system.** If a retirant is reemployed by any employer in any capacity, whether pursuant to this section, or section 169.331, 169.580, or 169.585, or as a regular employee, the amount of such person's retirement allowance attributable to service prior to the person's first retirement date shall not be changed by the reemployment. If the person again becomes an active member and earns additional creditable service, upon the person's second retirement the person's retirement allowance shall be the sum of:

(1) The retirement allowance the person was receiving at the time the person's retirement allowance was suspended, pursuant to the payment option elected as of the first retirement date, plus the amount of any increase in such retirement allowance the person would have received pursuant to subsection 3 of this section had payments not been suspended during the person's reemployment; and

(2) An additional retirement allowance computed using the benefit formula in effect on the person's second retirement date, the person's creditable service following reemployment, and the person's average **final** annual compensation as of the second retirement date. The sum calculated pursuant to this subsection shall not exceed the greater of sixty percent of the person's average final compensation as of the second retirement date or the amount determined pursuant to subdivision (1) of this subsection. Compensation earned prior to the person's first retirement date shall be considered in determining the person's average final compensation as of the second retirement date if such compensation would otherwise be included in determining the person's average final compensation.

3. The board of trustees shall determine annually whether the investment return on funds of the system can provide for an increase in benefits for retirants eligible for such increase. A retirant shall and will be eligible for an increase awarded pursuant to this section as of the second January following the date the retirant commenced receiving retirement benefits. Any such increase shall also apply to any monthly joint and survivor retirement allowance payable to such retirant's beneficiaries, regardless of age. The board shall make such determination as follows:

(1) After determination by the actuary of the investment return for the preceding year as of December thirty-first (the "valuation year"), the actuary shall recommend to the board of trustees what portion of the investment return is available to provide such benefits increase, if any, and shall recommend the amount of such benefits increase, if any, to be implemented as of the first day



of the thirteenth month following the end of the valuation year, and the first payable on or about the first day of the fourteenth month following the end of the valuation year. The actuary shall make such recommendations so as not to affect the financial soundness of the retirement system, recognizing the following safeguards:

(a) The retirement system's funded ratio as of January first of the year preceding the year of a proposed increase shall be at least one hundred percent after adjusting for the effect of the proposed increase. The funded ratio is the ratio of assets to the pension benefit obligation;

(b) The actuarially required contribution rate, after adjusting for the effect of the proposed increase, may not exceed the statutory contribution rate;

(c) The actuary shall certify to the board of trustees that the proposed increase will not impair the actuarial soundness of the retirement system;

(d) A benefit increase, under this section, once awarded, cannot be reduced in succeeding years;

(2) The board of trustees shall review the actuary's recommendation and report and shall, in their discretion, determine if any increase is prudent and, if so, shall determine the amount of increase to be awarded.

4. This section does not guarantee an annual increase to any retiree.

5. If an inactive member becomes an active member after June 30, 2001, and after a break in service, unless the person earns at least four additional years of creditable service without another break in service, upon retirement the person's retirement allowance shall be calculated separately for each separate period of service ending in a break in service. The retirement allowance shall be the sum of the separate retirement allowances computed for each such period of service using the benefit formula in effect, the person's average final compensation as of the last day of such period of service and the creditable service the person earned during such period of service; provided, however, if the person earns at least four additional years of creditable service without another break in service, all of the person's creditable service prior to and including such service shall be aggregated and, upon retirement, the retirement allowance shall be computed using the benefit formula in effect and the person's average final compensation as of the last day of such period of four or more years and all of the creditable service the person earned prior to and during such period.

6. Notwithstanding anything contained in this section to the contrary, the amount of the annual service retirement allowance payable to any retiree pursuant to the provisions of sections 169.270 to 169.400, including any adjustments made pursuant to subsection 3 of this section, shall at all times comply with the provisions and limitations of Section 415 of the Internal Revenue Code of 1986, as amended, and the regulations thereunder, the terms of which are specifically incorporated herein by reference.

7. All retirement systems established by the laws of the state of Missouri shall develop a procurement action plan for utilization of minority and women money managers, brokers and investment counselors. Such retirement systems shall report their progress annually to the joint committee on public employee retirement and the governor's minority advocacy commission.

**169.328. ACCUMULATED CONTRIBUTIONS RETURNED TO MEMBER, WHEN — ELIGIBLE ROLLOVER DISTRIBUTIONS, ELECTION FOR DISTRIBUTION.** — 1. Should a member cease to be a regular employee, except by retirement, the member, if living, shall be paid on demand, made by written notice to the board of trustees, the amount of the person's accumulated contributions (with interest as determined by the board of trustees as provided in sections 169.270 to 169.400) standing to the credit of the person's individual account in the employees' contribution fund. The accumulated contributions with interest shall not be paid to a member so long as the person remains a regular employee or before the member incurs a break in service. If the member dies before retirement such accumulated contributions (with interest) shall be paid to the member's estate or designated beneficiary unless the provisions of subsection 3 of section 169.326 apply.

2. If a former unvested member's accumulated contributions have not been withdrawn four years after the person has ceased to be a member (other than by reason of death or retirement), the board of trustees shall pay the same to such former member within a reasonable time after the expiration of such four-year period.

3. If, on account of undeliverability, improper mailing or forwarding address, or other similar problem, the board of trustees is unable to refund the accumulated contributions of a former unvested member or to commence payment of retirement benefits within four years after the end of the calendar year in which such former member ceased to be a regular employee, the board may transfer the accumulated contributions to the general reserve fund. If, thereafter, written application is made to the board of trustees for such refund or benefits, the board shall cause the same to be paid from the general reserve fund, but no interest shall be accrued after the end of the fourth year following the end of the calendar year in which such former member ceased to be a regular employee.

4. In its discretion the board of trustees may approve extensions of any time periods in this section on account of a former member's military or naval service, academic study or illness.

5. **Any member or beneficiary who is entitled to receive a distribution that is an eligible rollover distribution, as defined in Section 402(c)(4) of the Internal Revenue Code of 1986, as amended, may elect to have that distribution transferred directly to another eligible retirement plan, as defined in Section 402(c)(8) of the Internal Revenue Code of 1986, as amended, designated by the member or beneficiary in accordance with procedures established by the board of trustees. An eligible rollover distribution shall include a distribution to a nonspouse beneficiary that is treated as an eligible rollover distribution under Section 402(c)(11) of the Internal Revenue Code of 1986, as amended. All such transfers shall be made in compliance with the requirements of Section 401(a)(31) of the Internal Revenue Code of 1986, as amended, and regulations thereunder.**

Approved June 16, 2011

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## HB 250 [HCS HB 250]

**EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.**

### **Changes the laws regarding water well regulations**

AN ACT to amend chapter 640, RSMo, by adding thereto one new section relating to well water.

#### SECTION

A. Enacting clause.

640.116. Exemption from rules, system exclusively serving charitable or benevolent organization, when.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Chapter 640, RSMo, is amended by adding thereto one new section, to be known as section 640.116, to read as follows:

**640.116. EXEMPTION FROM RULES, SYSTEM EXCLUSIVELY SERVING CHARITABLE OR BENEVOLENT ORGANIZATION, WHEN. — 1. Any water system that exclusively serves a charitable or benevolent organization, if the system does not regularly serve an average of one hundred persons or more at least sixty days out of the year and the system does not**

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serve a school or day-care facility, shall be exempt from all rules relating to well construction except any rules established under sections 256.600 to 256.640 applying to multifamily wells, unless such wells or pump installations for such wells are determined to present a threat to groundwater or public health.

2. If the system incurs three or more total coliform maximum contaminant level violations in a twelve-month period or one acute maximum contaminant level violation, the system owner shall either provide an alternate source of water, eliminate the source of contamination, or provide treatment that reliably achieves at least ninety-nine and ninety-nine one-hundredths percent treatment of viruses.

3. Notwithstanding this or any other provision of law to the contrary, no facility otherwise described in subsection 1 of this section shall be required to replace, change, upgrade, or otherwise be compelled to alter an existing well constructed prior to August 28, 2011, unless such well is determined to present a threat to groundwater or public health or contains the contaminant levels referred to in subsection 2 of this section.

Approved June 22, 2011

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## HB 260 [HB 260]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Repeals and re-enacts provisions regarding the Uniform Interstate Family Support Act to be consistent with the changes adopted by the National Conference of Commissioners on Uniform State Laws**

AN ACT to repeal sections 210.844, 454.850, 454.853, 454.855, 454.857, 454.860, 454.862, 454.865, 454.867, 454.869, 454.871, 454.874, 454.877, 454.880, 454.882, 454.885, 454.887, 454.890, 454.892, 454.895, 454.897, 454.900, 454.902, 454.905, 454.907, 454.910, 454.912, 454.915, 454.917, 454.920, 454.922, 454.927, 454.930, 454.932, 454.934, 454.936, 454.938, 454.941, 454.943, 454.946, 454.948, 454.951, 454.953, 454.956, 454.958, 454.961, 454.963, 454.966, 454.968, 454.971, 454.973, 454.976, 454.978, 454.981, 454.983, 454.986, 454.989, 454.991, 454.993, 454.995, and 454.999, RSMo, and to enact in lieu thereof eighty new sections relating to the uniform interstate family support act.

**SECTION**

- A. Enacting clause.
- 210.844. Applicability of certain statutes.
- 454.1500. Short title.
- 454.1503. Definitions.
- 454.1506. State tribunal and support enforcement agency.
- 454.1509. Remedies cumulative.
- 454.1512. Application of act to resident of foreign county and foreign support proceeding.
- 454.1515. Basis for jurisdiction over nonresident.
- 454.1518. Duration of personal jurisdiction.
- 454.1521. Initiating and responding tribunal of state.
- 454.1524. Simultaneous proceedings.
- 454.1527. Continuing, exclusive jurisdiction to modify child support orders.
- 454.1530. Continuing jurisdiction to enforce child support order.
- 454.1533. Determination of controlling child support order.
- 454.1536. Child support orders for two or more obligees.
- 454.1539. Credit for payments.
- 454.1542. Application of act to nonresident subject to personal jurisdiction.
- 454.1545. Continuing, exclusive jurisdiction to modify spousal support order.
- 454.1548. Proceedings under act.
- 454.1551. Proceeding by minor parent.
- 454.1554. Application of law of state.
- 454.1557. Duties of initiating tribunal.
- 454.1560. Duties and powers of responding tribunal.
- 454.1563. Inappropriate tribunal.
- 454.1566. Duties of support enforcement agency.
- 454.1569. Duty of state official or agency.
- 454.1572. Private counsel.
- 454.1575. Duties of state information agency.
- 454.1578. Pleadings and accompanying documents.
- 454.1581. Nondisclosure of information in exceptional circumstances.
- 454.1584. Cost and fees.
- 454.1587. Limited immunity of petitioner.
- 454.1590. Nonparentage as defense.
- 454.1593. Special rules of evidence and procedure.
- 454.1596. Communications between tribunals.
- 454.1599. Assistance with discovery.
- 454.1602. Receipt and disbursement of payments.
- 454.1605. Establishment of support order.
- 454.1608. Proceeding to determine parentage.
- 454.1611. Employer's receipt of income withholding order of another state.
- 454.1614. Employer's compliance with income withholding order of another state.
- 454.1617. Employer's compliance with two or more income withholding orders.

- 454.1620. Immunity from civil liability.
- 454.1623. Penalties for noncompliance.
- 454.1626. Contest by obligor.
- 454.1629. Administrative enforcement of orders.
- 454.1632. Registration of order for enforcement.
- 454.1635. Procedure to register order for enforcement.
- 454.1638. Effect of registration for enforcement.
- 454.1641. Choice of law.
- 454.1644. Notice of registration of order.
- 454.1647. Procedure to contest validity or enforcement of registered support order.
- 454.1650. Contest of registration or enforcement.
- 454.1653. Confirmed order.
- 454.1656. Procedure to register child support order of another state for modification.
- 454.1659. Effect of registration for modification.
- 454.1662. Modification of child support order of another state.
- 454.1665. Recognition of order modified in another state.
- 454.1668. Jurisdiction to modify child support order of another state when individual parties reside in this state.
- 454.1671. Notice to issuing tribunal of modification.
- 454.1674. Jurisdiction to modify child support of foreign country.
- 454.1677. Procedure to register child support order of foreign country for modification.
- 454.1680. Definitions.
- 454.1683. Applicability.
- 454.1686. Relationship of governmental entity to United States authority.
- 454.1689. Initiation by governmental entity of support proceeding under convention.
- 454.1692. Direct request.
- 454.1695. Registration of convention support order.
- 454.1698. Contest of registered convention support order.
- 454.1701. Recognition and enforcement of registered convention support order.
- 454.1704. Partial enforcement
- 454.1707. Foreign support agreement.
- 454.1710. Modification of convention child support order.
- 454.1713. Personal information — limit on use.
- 454.1716. Record in original language — English translation.
- 454.1719. Grounds for rendition.
- 454.1722. Conditions of rendition.
- 454.1725. Uniformity of application and construction.
- 454.1727. Severability.
- 454.1728. Effective date.
- 454.1730. Applicability of certain state laws.
- 454.850. Definitions.
- 454.853. Tribunals in Missouri.
- 454.855. Remedies, cumulative.
- 454.857. Jurisdiction, extended personal jurisdiction.
- 454.860. Jurisdiction, evidence and discovery from a foreign state—conflict of laws
- 454.862. Tribunal of this state may be initiating or responding tribunal.
- 454.865. Jurisdiction may be exercised, when—jurisdiction not proper, when.
- 454.867. Jurisdiction, proceedings involving a foreign tribunal, exclusive jurisdiction, modifications of orders, loss of exclusive jurisdiction, recognition of foreign jurisdiction, effect of temporary support order on jurisdiction, spousal support order.
- 454.869. Jurisdiction, proceedings involving a foreign tribunal, tribunal requests to enforce or modify support orders.
- 454.871. Jurisdiction, multiple support orders—which order recognized, procedure.
- 454.874. Jurisdiction, multiple registrations or petitions for support orders, manner of treatment.
- 454.877. Collections pursuant to order of foreign tribunal, credited, how.
- 454.880. Proceedings authorized, commencement of proceedings.
- 454.882. Minor, proceeding on behalf of.
- 454.885. Applicable law, choice of law.
- 454.887. Copies of petition and documents forwarded.
- 454.890. Receipt of petition by state tribunal, notification of petitioner, powers of court.
- 454.892. Receipt by inappropriate tribunal, petition and documents, forwarded, notification.
- 454.895. Proceeding, services provided by support enforcement agency.
- 454.897. Attorney general's order on neglect by support enforcement agency's duties.
- 454.900. Representation by counsel.
- 454.902. Division of child support enforcement is state information agency, duties.
- 454.905. Petitions, verification requirements.
- 454.907. Pleadings, nondisclosure of information.
- 454.910. Payment of fees and costs, attorney's fees.
- 454.912. Jurisdiction, personal, not obtained for another proceeding, immunity from service of process, when.
- 454.915. Parentage, previous determination, effect on defense of nonparentage.

- 454.917. Presence of petitioner for jurisdiction of tribunal, evidence admissible.
- 454.920. Inquiries between tribunals, communication means permitted.
- 454.922. Discovery, request of assistance between tribunals.
- 454.927. Disbursements, statement furnished.
- 454.930. Support orders issued, when, temporary child support order issued, when.
- 454.932. Income withholding order, issued in another state.
- 454.934. Income withholding orders, employer's duties.
- 454.936. Multiple orders to withhold support, compliance of employer, when.
- 454.938. Immunity from civil liability of employer for compliance.
- 454.941. Penalties for noncompliance of employer.
- 454.943. Validity of income withholding contested, procedure.
- 454.946. Foreign tribunal's order enforced, when, procedure.
- 454.948. Registration of a foreign tribunal's order required.
- 454.951. Procedure for registering a foreign tribunal's order.
- 454.953. Registration is complete and enforceable when.
- 454.956. Issuing state law governs—statute of limitations.
- 454.958. Notification of nonregistering party, procedure.
- 454.961. Nonregistering party's contest of a support order, procedure, effect.
- 454.963. Burden of proof, contest by nonregistering party.
- 454.966. Confirmation of registration.
- 454.968. Modifications of foreign tribunal's orders registered how, when.
- 454.971. Modifications of foreign tribunal's orders enforced, when.
- 454.973. Modification of an order issued in a foreign tribunal permitted, when.
- 454.976. Recognition of a foreign tribunal's modification of this state's order, when.
- 454.978. Jurisdiction for a child support proceeding.
- 454.981. Certified copy of a modification filed with issuing tribunal.
- 454.983. Determination of parentage—which tribunal.
- 454.986. Governor, defined, duties.
- 454.989. Surrender of a parent charged with failure to provide support, procedure.
- 454.991. Construction and application of sections 454.850 to 454.997.
- 454.993. Citation of the uniform interstate family support act.
- 454.995. Severability.
- 454.999. Applicability of certain statutes.
  - B. Effective date of repeal of act.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 210.844, 454.850, 454.853, 454.855, 454.857, 454.860, 454.862, 454.865, 454.867, 454.869, 454.871, 454.874, 454.877, 454.880, 454.882, 454.885, 454.887, 454.890, 454.892, 454.895, 454.897, 454.900, 454.902, 454.905, 454.907, 454.910, 454.912, 454.915, 454.917, 454.920, 454.922, 454.927, 454.930, 454.932, 454.934, 454.936, 454.938, 454.941, 454.943, 454.946, 454.948, 454.951, 454.953, 454.956, 454.958, 454.961, 454.963, 454.966, 454.968, 454.971, 454.973, 454.976, 454.978, 454.981, 454.983, 454.986, 454.989, 454.991, 454.993, 454.995, and 454.999, RSMo, are repealed and eighty new sections enacted in lieu thereof, to be known as sections 210.844, 454.1500, 454.1503, 454.1506, 454.1509, 454.1512, 454.1515, 454.1518, 454.1521, 454.1524, 454.1527, 454.1530, 454.1533, 454.1536, 454.1539, 454.1542, 454.1545, 454.1548, 454.1551, 454.1554, 454.1557, 454.1560, 454.1563, 454.1566, 454.1569, 454.1572, 454.1575, 454.1578, 454.1581, 454.1584, 454.1587, 454.1590, 454.1593, 454.1596, 454.1599, 454.1602, 454.1605, 454.1608, 454.1611, 454.1614, 454.1617, 454.1620, 454.1623, 454.1626, 454.1629, 454.1632, 454.1635, 454.1638, 454.1641, 454.1644, 454.1647, 454.1650, 454.1653, 454.1656, 454.1659, 454.1662, 454.1665, 454.1668, 454.1671, 454.1674, 454.1677, 454.1680, 454.1683, 454.1686, 454.1689, 454.1692, 454.1695, 454.1698, 454.1701, 454.1704, 454.1707, 454.1710, 454.1713, 454.1716, 454.1719, 454.1722, 454.1725, 454.1727, 454.1728, and 454.1730, to read as follows:

**210.844. APPLICABILITY OF CERTAIN STATUTES.** — In a proceeding to determine the existence of the parent and child relationship brought [pursuant to the provisions of sections 454.010 to 454.360, RSMo, or pursuant to the provisions of sections 454.850 to 454.997, RSMo, the provisions of sections 210.817, 210.822 and 210.834] **under sections 454.850 to 454.997 or under sections 454.1500 to 454.1728, the provisions of sections 210.817, 210.822, 210.823,**

210.834, and 210.836 shall apply, but no other provisions of sections 210.818 through 210.852 shall apply.

**ARTICLE 1  
GENERAL PROVISIONS**

**454.1500. SHORT TITLE.** — This act, sections 454.1500 to 454.1728, may be cited as the Uniform Interstate Family Support Act.

**454.1503. DEFINITIONS.** — In this act, sections 454.1500 to 454.1728:

(1) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

(2) "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state or foreign country.

(3) "Convention" means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, concluded at The Hague on November 23, 2007.

(4) "Duty of support" means an obligation imposed or imposed by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

(5) "Foreign country" means a country, including a political subdivision thereof, other than the United States, that authorizes the issuance of support orders and:

(A) which has been declared under the law of the United States to be a foreign reciprocating country;

(B) which has established a reciprocal arrangement for child support with this state as provided in section 454.1569;

(C) which has enacted a law or established procedures for the issuance and enforcement of support orders which are substantially similar to the procedures under sections 454.1500 to 454.1728; or

(D) in which the Convention is in force with respect to the United States.

(6) "Foreign support order" means a support order of a foreign tribunal.

(7) "Foreign tribunal" means a court, administrative agency, or quasi-judicial entity of a foreign country which is authorized to establish, enforce, or modify support orders or to determine parentage of a child. The term includes a competent authority under the Convention.

(8) "Home state" means the state or foreign country in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state or foreign country in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period.

(9) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state.

(10) "Income-withholding order" means an order or other legal process directed to an obligor's employer or other debtor, as defined by section 452.350 or 454.505, to withhold support from the income of the obligor.

(11) "Initiating tribunal" means the tribunal of a state or foreign country from which a petition or comparable pleading is forwarded or in which a petition or comparable pleading is filed for forwarding to another state or foreign country.

(12) "Issuing foreign country" means the foreign country in which a tribunal issues a support order or a judgment determining parentage of a child.

(13) "Issuing state" means the state in which a tribunal issues a support order or a judgment determining parentage of a child.

(14) "Issuing tribunal" means the tribunal of a state or foreign country that issues a support order or a judgment determining parentage of a child.

(15) "Law" includes decisional and statutory law and rules and regulations having the force of law.

(16) "Obligee" means:

(A) an individual to whom a duty of support is or is alleged to be owed or in whose favor a support order or a judgment determining parentage of a child has been issued;

(B) a foreign country, state, or political subdivision of a state to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee in place of child support;

(C) an individual seeking a judgment determining parentage of the individual's child; or

(D) a person that is a creditor in a proceeding under Article 7, sections 454.1680 to 454.1716.

(17) "Obligor" means an individual, or the estate of a decedent that:

(A) owes or is alleged to owe a duty of support;

(B) is alleged but has not been adjudicated to be a parent of a child;

(C) is liable under a support order; or

(D) is a debtor in a proceeding under Article 7, sections 454.1680 to 454.1716.

(18) "Outside this state" means a location in another state or a country other than the United States, whether or not the country is a foreign country.

(19) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(20) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(21) "Register" means to record or file in a tribunal of this state a support order or judgment determining parentage of a child issued in another state or a foreign country.

(22) "Registering tribunal" means a tribunal in which a support order or judgment determining parentage of a child is registered.

(23) "Responding state" means a state in which a petition or comparable pleading for support or to determine parentage of a child is filed or to which a petition or comparable pleading is forwarded for filing from another state or a foreign country.

(24) "Responding tribunal" means the authorized tribunal in a responding state or foreign country.

(25) "Spousal support order" means a support order for a spouse or former spouse of the obligor.

(26) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession under the jurisdiction of the United States. The term includes an Indian nation or tribe.

(27) "Support enforcement agency" means a public official, governmental entity, or private agency authorized to:

(A) seek enforcement of support orders or laws relating to the duty of support;

(B) seek establishment or modification of child support;

(C) request determination of parentage of a child;

(D) attempt to locate obligors or their assets; or

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(E) request determination of the controlling child support order.

(28) "Support order" means a judgment, decree, order, decision, or directive, whether temporary, final, or subject to modification, issued in a state or foreign country for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, retroactive support, or reimbursement for financial assistance provided to an individual obligee in place of child support. The term may include related costs and fees, interest, income withholding, automatic adjustment, reasonable attorney's fees, and other relief.

(29) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage of a child.

**454.1506. STATE TRIBUNAL AND SUPPORT ENFORCEMENT AGENCY.** — (a) The courts and the family support division are the tribunals of this state.

(b) The family support division is the support enforcement agency of this state.

**454.1509. REMEDIES CUMULATIVE.** — (a) Remedies provided by sections 454.1500 to 454.1728 are cumulative and do not affect the availability of remedies under other law or the recognition of a foreign support order on the basis of comity.

(b) Sections 454.1500 to 454.1728 do not:

(1) provide the exclusive method of establishing or enforcing a support order under the law of this state; or

(2) grant a tribunal of this state jurisdiction to render judgment or issue an order relating to child custody or visitation in a proceeding under sections 454.1500 to 454.1728.

**454.1512. APPLICATION OF ACT TO RESIDENT OF FOREIGN COUNTY AND FOREIGN SUPPORT PROCEEDING.** — (a) A tribunal of this state shall apply Articles 1 through 6, sections 454.1500 to 454.1677, and, as applicable, Article 7, sections 454.1680 to 454.1716, to a support proceeding involving:

(1) a foreign support order;

(2) a foreign tribunal; or

(3) an obligee, obligor, or child residing in a foreign country.

(b) A tribunal of this state that is requested to recognize and enforce a support order on the basis of comity may apply the procedural and substantive provisions of Articles 1 through 6, sections 454.1500 to 454.1677.

(c) Article 7, sections 454.1680 to 454.1716, apply only to a support proceeding under the Convention. In such a proceeding, if a provision of Article 7, sections 454.1680 to 454.1716, is inconsistent with Articles 1 through 6, sections 454.1500 to 454.1677, Article 7, sections 454.1680 to 454.1716, controls.

## ARTICLE 2 JURISDICTION

**454.1515. BASIS FOR JURISDICTION OVER NONRESIDENT.** — (a) In a proceeding to establish or enforce a support order or to determine parentage of a child, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

(1) the individual is personally served with notice within this state;

(2) the individual submits to the jurisdiction of this state by consent in a record, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;

- (3) the individual resided with the child in this state;
- (4) the individual resided in this state and provided prenatal expenses or support for the child;
- (5) the child resides in this state as a result of the acts or directives of the individual;
- (6) the individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse;
- (7) the individual asserted parentage of a child in the putative father registry maintained in this state by the department of health and senior services; or
- (8) there is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

(b) The bases of personal jurisdiction set forth in subsection (a) or in any other law of this state may not be used to acquire personal jurisdiction for a tribunal of this state to modify a child support order of another state unless the requirements of section 454.1662 are met, or, in the case of a foreign support order, unless the requirements of section 454.1674 are met.

**454.1518. DURATION OF PERSONAL JURISDICTION.** — Personal jurisdiction acquired by a tribunal of this state in a proceeding under sections 454.1500 to 454.1728 or other law of this state relating to a support order continues as long as a tribunal of this state has continuing, exclusive jurisdiction to modify its order or continuing jurisdiction to enforce its order as provided by sections 454.1527, 454.1530, and 454.1545.

**454.1521. INITIATING AND RESPONDING TRIBUNAL OF STATE.** — Under sections 454.1500 to 454.1728, a tribunal of this state may serve as an initiating tribunal to forward proceedings to a tribunal of another state and as a responding tribunal for proceedings initiated in another state or a foreign country.

**454.1524. SIMULTANEOUS PROCEEDINGS.** — (a) A tribunal of this state may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a pleading is filed in another state or a foreign country only if:

- (1) the petition or comparable pleading in this state is filed before the expiration of the time allowed in the other state or the foreign country for filing a responsive pleading challenging the exercise of jurisdiction by the other state or the foreign country;
- (2) the contesting party timely challenges the exercise of jurisdiction in the other state or the foreign country; and
- (3) if relevant, this state is the home state of the child.

(b) A tribunal of this state may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state or a foreign country if:

- (1) the petition or comparable pleading in the other state or foreign country is filed before the expiration of the time allowed in this state for filing a responsive pleading challenging the exercise of jurisdiction by this state;
- (2) the contesting party timely challenges the exercise of jurisdiction in this state; and
- (3) if relevant, the other state or foreign country is the home state of the child.

**454.1527. CONTINUING, EXCLUSIVE JURISDICTION TO MODIFY CHILD SUPPORT ORDERS.** — (a) A tribunal of this state that has issued a child support order consistent with the law of this state has and shall exercise continuing, exclusive jurisdiction to modify its child support order if the order is the controlling order and:

(1) at the time of the filing of a request for modification this state is the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

(2) even if this state is not the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued, the parties consent in a record or in open court that the tribunal of this state may continue to exercise jurisdiction to modify its order.

(b) A tribunal of this state that has issued a child support order consistent with the law of this state may not exercise continuing, exclusive jurisdiction to modify the order if:

(1) all of the parties who are individuals file consent in a record with the tribunal of this state that a tribunal of another state that has jurisdiction over at least one of the parties who is an individual or that is located in the state of residence of the child may modify the order and assume continuing, exclusive jurisdiction; or

(2) its order is not the controlling order.

(c) If a tribunal of another state has issued a child support order pursuant to the Uniform Interstate Family Support Act or a law substantially similar to that Act which modifies a child support order of a tribunal of this state, tribunals of this state shall recognize the continuing, exclusive jurisdiction of the tribunal of the other state.

(d) A tribunal of this state that lacks continuing, exclusive jurisdiction to modify a child support order may serve as an initiating tribunal to request a tribunal of another state to modify a support order issued in that state.

(e) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

**454.1530. CONTINUING JURISDICTION TO ENFORCE CHILD SUPPORT ORDER.** — (a) A tribunal of this state that has issued a child support order consistent with the law of this state may serve as an initiating tribunal to request a tribunal of another state to enforce:

(1) the order if the order is the controlling order and has not been modified by a tribunal of another state that assumed jurisdiction pursuant to the Uniform Interstate Family Support Act; or

(2) a money judgment for arrears of support and interest on the order accrued before a determination that an order of a tribunal of another state is the controlling order.

(b) A tribunal of this state having continuing jurisdiction over a support order may act as a responding tribunal to enforce the order.

**454.1533. DETERMINATION OF CONTROLLING CHILD SUPPORT ORDER.** — (a) If a proceeding is brought under sections 454.1500 to 454.1728 and only one tribunal has issued a child support order, the order of that tribunal controls and must be recognized.

(b) If a proceeding is brought under sections 454.1500 to 454.1728, and two or more child support orders have been issued by tribunals of this state, another state, or a foreign country with regard to the same obligor and same child, a tribunal of this state having personal jurisdiction over both the obligor and individual obligee shall apply the following rules and by order shall determine which order controls and must be recognized:

(1) If only one of the tribunals would have continuing, exclusive jurisdiction under sections 454.1500 to 454.1728, the order of that tribunal controls.

(2) If more than one of the tribunals would have continuing, exclusive jurisdiction under sections 454.1500 to 454.1728:

(A) an order issued by a tribunal in the current home state of the child controls; or

(B) if an order has not been issued in the current home state of the child, the order most recently issued controls.

(3) If none of the tribunals would have continuing, exclusive jurisdiction under sections 454.1500 to 454.1728, the tribunal of this state shall issue a child support order, which controls.

(c) If two or more child support orders have been issued for the same obligor and same child, upon request of a party who is an individual or that is a support enforcement agency, a tribunal of this state having personal jurisdiction over both the obligor and the obligee who is an individual shall determine which order controls under subsection (b). The request may be filed with a registration for enforcement or registration for modification pursuant to Article 6, sections 454.1632 to 454.1677, or may be filed as a separate proceeding.

(d) A request to determine which is the controlling order must be accompanied by a copy of every child support order in effect and the applicable record of payments. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.

(e) The tribunal that issued the controlling order under subsections (a), (b), or (c) has continuing jurisdiction to the extent provided in section 454.1527 or 454.1530.

(f) A tribunal of this state that determines by order which is the controlling order under subsection (b)(1) or (2) or (c), or that issues a new controlling order under subsection (b)(3), shall state in that order:

(1) the basis upon which the tribunal made its determination;

(2) the amount of prospective support, if any; and

(3) the total amount of consolidated arrears and accrued interest, if any, under all of the orders after all payments made are credited as provided by section 454.1539.

(g) Within thirty days after issuance of an order determining which is the controlling order, the party obtaining the order shall file a certified copy of it in each tribunal that issued or registered an earlier order of child support. A party or support enforcement agency obtaining the order that fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the controlling order.

(h) An order that has been determined to be the controlling order, or a judgment for consolidated arrears of support and interest, if any, made pursuant to this section must be recognized in proceedings under sections 454.1500 to 454.1728.

**454.1536. CHILD SUPPORT ORDERS FOR TWO OR MORE OBLIGEES.** — In responding to registrations or petitions for enforcement of two or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state or a foreign country, a tribunal of this state shall enforce those orders in the same manner as if the orders had been issued by a tribunal of this state.

**454.1539. CREDIT FOR PAYMENTS.** — A tribunal of this state shall credit amounts collected for a particular period pursuant to any child support order against the amounts owed for the same period under any other child support order for support of the same child issued by a tribunal of this state, another state, or a foreign country.

**454.1542. APPLICATION OF ACT TO NONRESIDENT SUBJECT TO PERSONAL JURISDICTION.** — A tribunal of this state exercising personal jurisdiction over a nonresident in a proceeding under sections 454.1500 to 454.1728, under other law of this state relating to a support order, or recognizing a foreign support order may receive evidence from outside this state pursuant to section 454.1593, communicate with a tribunal outside this state pursuant to section 454.1596, and obtain discovery through a tribunal

outside this state pursuant to section 454.1599. In all other respects, Article 3 through 6, sections 454.1548 to 454.1677, do not apply, and the tribunal shall apply the procedural and substantive law of this state.

**454.1545. CONTINUING, EXCLUSIVE JURISDICTION TO MODIFY SPOUSAL SUPPORT ORDER.** — (a) A tribunal of this state issuing a spousal support order consistent with the law of this state has continuing, exclusive jurisdiction to modify the spousal support order throughout the existence of the support obligation.

(b) A tribunal of this state may not modify a spousal support order issued by a tribunal of another state or a foreign country having continuing, exclusive jurisdiction over that order under the law of that state or foreign country.

(c) A tribunal of this state that has continuing, exclusive jurisdiction over a spousal support order may serve as:

- (1) an initiating tribunal to request a tribunal of another state to enforce the spousal support order issued in this state; or
- (2) a responding tribunal to enforce or modify its own spousal support order.

### ARTICLE 3 CIVIL PROVISIONS OF GENERAL APPLICATION

**454.1548. PROCEEDINGS UNDER ACT.** — (a) Except as otherwise provided in sections 454.1500 to 454.1728, this article, sections 454.1548 to 454.1602, applies to all proceedings under sections 454.1500 to 454.1728.

(b) An individual petitioner or a support enforcement agency may initiate a proceeding authorized under sections 454.1500 to 454.1728 by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state or foreign country which has or can obtain personal jurisdiction over the respondent.

**454.1551. PROCEEDING BY MINOR PARENT.** — A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child.

**454.1554. APPLICATION OF LAW OF STATE.** — Except as otherwise provided by sections 454.1500 to 454.1728, a responding tribunal of this state shall:

- (1) apply the procedural and substantive law generally applicable to similar proceedings originating in this state and may exercise all powers and provide all remedies available in those proceedings; and
- (2) determine the duty of support and the amount payable in accordance with the law and support guidelines of this state.

**454.1557. DUTIES OF INITIATING TRIBUNAL.** — (a) Upon the filing of a petition authorized by sections 454.1500 to 454.1728, an initiating tribunal of this state shall forward the petition and its accompanying documents:

- (1) to the responding tribunal or appropriate support enforcement agency in the responding state; or
- (2) if the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

(b) If requested by the responding tribunal, a tribunal of this state shall issue a certificate or other document and make findings required by the law of the responding

state. If the responding tribunal is in a foreign country, upon request the tribunal of this state shall specify the amount of support sought, convert that amount into the equivalent amount in the foreign currency under applicable official or market exchange rate as publicly reported, and provide any other documents necessary to satisfy the requirements of the responding foreign tribunal.

**454.1560. DUTIES AND POWERS OF RESPONDING TRIBUNAL.** — (a) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to subsection (b) of section 454.1548, it shall cause the petition or pleading to be filed and notify the petitioner where and when it was filed.

(b) A responding tribunal of this state, to the extent not prohibited by other law, may do one or more of the following:

- (1) establish or enforce a support order, modify a child support order, determine the controlling child support order, or determine parentage of the child;
- (2) order an obligor to comply with a support order, specifying the amount and the manner of compliance;
- (3) order income withholding;
- (4) determine the amount of any arrearages, and specify a method of payment;
- (5) enforce orders by civil or criminal contempt, or both;
- (6) set aside property for satisfaction of the support order;
- (7) place liens and order execution on the obligor's property;
- (8) order an obligor to keep the tribunal informed of the obligor's current residential address, electronic mail address, telephone number, employer, address of employment, and telephone number at the place of employment;
- (9) issue a bench warrant for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant in any local and state computer systems for criminal warrants;
- (10) order the obligor to seek appropriate employment by specified methods;
- (11) award reasonable attorney's fees and other fees and costs; and
- (12) grant any other available remedy.

(c) A responding tribunal of this state shall include in a support order issued under sections 454.1500 to 454.1728, or in the documents accompanying the order, the calculations on which the support order is based.

(d) A responding tribunal of this state may not condition the payment of a support order issued under sections 454.1500 to 454.1728 upon compliance by a party with provisions for visitation.

(e) If a responding tribunal of this state issues an order under sections 454.1500 to 454.1728, the tribunal shall send a copy of the order to the petitioner and the respondent and to the initiating tribunal, if any.

(f) If requested to enforce a support order, arrears, or judgment or modify a support order stated in a foreign currency, a responding tribunal of this state shall convert the amount stated in the foreign currency to the equivalent amount in dollars under the applicable official or market exchange rate as publicly reported.

**454.1563. INAPPROPRIATE TRIBUNAL.** — If a petition or comparable pleading is received by an inappropriate tribunal of this state, the tribunal shall forward the pleading and accompanying documents to an appropriate tribunal of this state or another state and notify the petitioner where and when the pleading was sent.

**454.1566. DUTIES OF SUPPORT ENFORCEMENT AGENCY.** — (a) A support enforcement agency of this state, upon request, shall provide services to a petitioner in a proceeding under sections 454.1500 to 454.1728.

(b) A support enforcement agency of this state that is providing services to the petitioner as appropriate shall:

(1) take all steps necessary to enable an appropriate tribunal of this state, another state, or a foreign country to obtain jurisdiction over the respondent;

(2) request an appropriate tribunal to set a date, time, and place for a hearing;

(3) make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(4) within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of notice in a record from an initiating, responding, or registering tribunal, send a copy of the notice to the petitioner;

(5) within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of communication in a record from the respondent or the respondent's attorney, send a copy of the communication to the petitioner; and

(6) notify the petitioner if jurisdiction over the respondent cannot be obtained.

(c) A support enforcement agency of this state that requests registration of a child support order in this state for enforcement or for modification shall make reasonable efforts:

(1) to ensure that the order to be registered is the controlling order; or

(2) if two or more child support orders exist and the identity of the controlling order has not been determined, to ensure that a request for such a determination is made in a tribunal having jurisdiction to do so.

(d) A support enforcement agency of this state that requests registration and enforcement of a support order, arrears, or judgment stated in a foreign currency shall convert the amounts stated in the foreign currency into the equivalent amounts in dollars under the applicable official or market exchange rate as publicly reported.

(e) A support enforcement agency of this state shall issue or request a tribunal of this state to issue a child support order and an income withholding order that redirect payment of current support, arrears, and interest if requested to do so by a support enforcement agency of another state pursuant to section 454.1602.

(f) Sections 454.1500 to 454.1728 do not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

**454.1569. DUTY OF STATE OFFICIAL OR AGENCY.** — (a) If the attorney general determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the attorney general may order the agency to perform its duties under sections 454.1500 to 454.1728 or may provide those services directly to the individual.

(b) The attorney general may determine that a foreign country has established a reciprocal arrangement for child support with this state and take appropriate action for notification of the determination.

**454.1572. PRIVATE COUNSEL.** — An individual may employ private counsel to represent the individual in proceedings authorized by sections 454.1500 to 454.1728.

**454.1575. DUTIES OF STATE INFORMATION AGENCY.** — (a) The family support division within the department of social services is the state information agency under sections 454.1500 to 454.1728.

(b) The state information agency shall:

(1) compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under sections 454.1500 to 454.1728 and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state;

(2) maintain a register of names and addresses of tribunals and support enforcement agencies received from other states;

(3) forward to the appropriate tribunal in the county in this state in which the obligee who is an individual or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under sections 454.1500 to 454.1728 received from another state or a foreign country; and

(4) obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and Social Security.

**454.1578. PLEADINGS AND ACCOMPANYING DOCUMENTS.** — (a) In a proceeding under sections 454.1500 to 454.1728, a petitioner seeking to establish a support order, to determine parentage of a child, or to register and modify a support order of a tribunal of another state or a foreign country must file a petition. Unless otherwise ordered under section 454.1581, the petition or accompanying documents must provide, so far as known, the name, residential address, and Social Security numbers of the obligor and the obligee or the parent and alleged parent, and the name, sex, residential address, Social Security number, and date of birth of each child for whose benefit support is sought or whose parentage is to be determined. Unless filed at the time of registration, the petition must be accompanied by a copy of any support order known to have been issued by another tribunal. The petition may include any other information that may assist in locating or identifying the respondent.

(b) The petition must specify the relief sought. The petition and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

**454.1581. NONDISCLOSURE OF INFORMATION IN EXCEPTIONAL CIRCUMSTANCES.** — If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of specific identifying information, that information must be sealed and may not be disclosed to the other party or the public. After a hearing in which a tribunal takes into consideration the health, safety, or liberty of the party or child, the tribunal may order disclosure of information that the tribunal determines to be in the interest of justice.

**454.1584. COST AND FEES.** — (a) The petitioner may not be required to pay a filing fee or other costs.

(b) If an obligee prevails, a responding tribunal of this state may assess against an obligor filing fees, reasonable attorney's fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or responding state or foreign country, except as provided by other law. Attorney's fees may be taxed as costs, and may be ordered paid directly to the

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attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs, and expenses.

(c) The tribunal shall order the payment of costs and reasonable attorney's fees if it determines that a hearing was requested primarily for delay. In a proceeding under Article 6, sections 454.1632 to 454.1677, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

**454.1587. LIMITED IMMUNITY OF PETITIONER.** — (a) Participation by a petitioner in a proceeding under sections 454.1500 to 454.1728 before a responding tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the petitioner in another proceeding.

(b) A petitioner is not amenable to service of civil process while physically present in this state to participate in a proceeding under sections 454.1500 to 454.1728.

(c) The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under sections 454.1500 to 454.1728 committed by a party while physically present in this state to participate in the proceeding.

**454.1590. NONPARENTAGE AS DEFENSE.** — A party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense to a proceeding under sections 454.1500 to 454.1728.

**454.1593. SPECIAL RULES OF EVIDENCE AND PROCEDURE.** — (a) The physical presence of a nonresident party who is an individual in a tribunal of this state is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage of a child.

(b) An affidavit, a document substantially complying with federally mandated forms, or a document incorporated by reference in any of them, which would not be excluded under the hearsay rule if given in person, is admissible in evidence if given under penalty of perjury by a party or witness residing outside this state.

(c) A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it, and is admissible to show whether payments were made.

(d) Copies of bills for testing for parentage of a child, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least ten days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

(e) Documentary evidence transmitted from outside this state to a tribunal of this state by telephone, telecopier, or other electronic means that do not provide an original record may not be excluded from evidence on an objection based on the means of transmission.

(f) In a proceeding under sections 454.1500 to 454.1728, a tribunal of this state shall permit a party or witness residing outside this state to be deposed or to testify under penalty of perjury by telephone, audiovisual means, or other electronic means at a designated tribunal or other location. A tribunal of this state shall cooperate with other tribunals in designating an appropriate location for the deposition or testimony.

(g) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

(h) A privilege against disclosure of communications between spouses does not apply in a proceeding under sections 454.1500 to 454.1728.

(i) The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under sections 454.1500 to 454.1728.

(j) A voluntary acknowledgment of paternity, certified as a true copy, is admissible to establish parentage of the child.

**454.1596. COMMUNICATIONS BETWEEN TRIBUNALS.** — A tribunal of this state may communicate with a tribunal outside this state in a record or by telephone, electronic mail, or other means, to obtain information concerning the laws, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding. A tribunal of this state may furnish similar information by similar means to a tribunal outside this state.

**454.1599. ASSISTANCE WITH DISCOVERY.** — A tribunal of this state may:

- (1) request a tribunal outside this state to assist in obtaining discovery; and
- (2) upon request, compel a person over which it has jurisdiction to respond to a discovery order issued by a tribunal outside this state.

**454.1602. RECEIPT AND DISBURSEMENT OF PAYMENTS.** — (a) A support enforcement agency or tribunal of this state shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another state or a foreign country a certified statement by the custodian of the record of the amounts and dates of all payments received.

(b) If neither the obligor, nor the obligee who is an individual, nor the child resides in this state, upon request from the support enforcement agency of this state or another state, a tribunal of this state shall:

- (1) direct that the support payment be made to the support enforcement agency in the state in which the obligee is receiving services; and
- (2) issue and send to the obligor's employer a conforming income withholding order or an administrative notice of change of payee, reflecting the redirected payments.

(c) The support enforcement agency of this state receiving redirected payments from another state pursuant to a law similar to subsection (b) shall furnish to a requesting party or tribunal of the other state a certified statement by the custodian of the record of the amount and dates of all payments received.

#### ARTICLE 4 ESTABLISHMENT OF SUPPORT ORDER OR DETERMINATION OF PARENTAGE

**454.1605. ESTABLISHMENT OF SUPPORT ORDER.** — (a) If a support order entitled to recognition under sections 454.1500 to 454.1728 has not been issued, a responding tribunal of this state with personal jurisdiction over the parties may issue a support order if:

- (1) the individual seeking the order resides outside this state; or
  - (2) the support enforcement agency seeking the order is located outside this state.
- (b) The tribunal may issue a temporary child support order if the tribunal determines that such an order is appropriate and the individual ordered to pay is:
- (1) a presumed father of the child;
  - (2) petitioning to have his paternity adjudicated;
  - (3) identified as the father of the child through genetic testing;
  - (4) an alleged father who has declined to submit to genetic testing;
  - (5) shown by clear and convincing evidence to be the father of the child;
  - (6) an acknowledged father as provided under section 210.823;
  - (7) the mother of the child; or

(8) an individual who has been ordered to pay child support in a previous proceeding and the order has not been reversed or vacated.

(c) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to section 454.1560.

**454.1608. PROCEEDING TO DETERMINE PARENTAGE.** — A tribunal of this state authorized to determine parentage of a child may serve as a responding tribunal in a proceeding to determine parentage of a child brought under sections 454.1500 to 454.1728 or a law or procedure substantially similar to sections 454.1500 to 454.1728.

## ARTICLE 5

### ENFORCEMENT OF SUPPORT ORDER WITHOUT REGISTRATION

**454.1611. EMPLOYER'S RECEIPT OF INCOME WITHHOLDING ORDER OF ANOTHER STATE.** — An income withholding order issued in another state may be sent by or on behalf of the obligee, or by the support enforcement agency, to the person defined as the obligor's employer under section 452.350 or 454.505 without first filing a petition or comparable pleading or registering the order with a tribunal of this state.

**454.1614. EMPLOYER'S COMPLIANCE WITH INCOME WITHHOLDING ORDER OF ANOTHER STATE.** — (a) Upon receipt of an income withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.

(b) The employer shall treat an income withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this state.

(c) Except as otherwise provided in subsection (d) of this section and section 454.1617, the employer shall withhold and distribute the funds as directed in the withholding order by complying with terms of the order which specify:

(1) the duration and amount of periodic payments of current child support, stated as a sum certain;

(2) the person designated to receive payments and the address to which the payments are to be forwarded;

(3) medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment;

(4) the amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sums certain; and

(5) the amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.

(d) An employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to:

(1) the employer's fee for processing an income withholding order;

(2) the maximum amount permitted to be withheld from the obligor's income; and

(3) the times within which the employer must implement the withholding order and forward the child support payment.

**454.1617. EMPLOYER'S COMPLIANCE WITH TWO OR MORE INCOME WITHHOLDING ORDERS.** — If an obligor's employer receives two or more income withholding orders with respect to the earnings of the same obligor, the employer satisfies the terms of the orders if the employer complies with the law of the state of the obligor's principal place of

employment to establish the priorities for withholding and allocating income withheld for two or more child support obligees.

**454.1620. IMMUNITY FROM CIVIL LIABILITY.** — An employer that complies with an income withholding order issued in another state in accordance with sections 454.1611 to 454.1629 is not subject to civil liability to an individual or agency with regard to the employer's withholding of child support from the obligor's income.

**454.1623. PENALTIES FOR NONCOMPLIANCE.** — An employer that willfully fails to comply with an income withholding order issued in another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this state.

**454.1626. CONTEST BY OBLIGOR.** — (a) An obligor may contest the validity or enforcement of an income withholding order issued in another state and received directly by an employer in this state by registering the order in a tribunal of this state and filing a contest to that order as provided in Article 6, sections 454.1632 to 454.1677, or otherwise contesting the order in the same manner as if the order had been issued by a tribunal of this state.

(b) The obligor shall give notice of the contest to:

- (1) a support enforcement agency providing services to the obligee;
- (2) each employer that has directly received an income withholding order relating to the obligor; and
- (3) the person designated to receive payments in the income withholding order or, if no person is designated, to the obligee.

**454.1629. ADMINISTRATIVE ENFORCEMENT OF ORDERS.** — (a) A party or support enforcement agency seeking to enforce a support order or an income withholding order, or both, issued in another state or a foreign support order may send the documents required for registering the order to a support enforcement agency of this state.

(b) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this state to enforce a support order or an income withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to sections 454.1500 to 454.1728.

## ARTICLE 6 REGISTRATION, ENFORCEMENT, AND MODIFICATION OF SUPPORT ORDER

### Part 1 REGISTRATION FOR ENFORCEMENT OF SUPPORT ORDER

**454.1632. REGISTRATION OF ORDER FOR ENFORCEMENT.** — A support order or income withholding order issued in another state or a foreign support order may be registered in this state for enforcement.

**454.1635. PROCEDURE TO REGISTER ORDER FOR ENFORCEMENT.** — (a) Except as otherwise provided in section 454.1695, a support order or income withholding order of

another state or a foreign support order may be registered in this state by sending the following records to the appropriate tribunal in this state:

- (1) a letter of transmittal to the tribunal requesting registration and enforcement;
  - (2) two copies, including one certified copy, of the order to be registered, including any modification of the order;
  - (3) a sworn statement by the person requesting registration or a certified statement by the custodian of the records showing the amount of any arrearage;
  - (4) the name of the obligor and, if known:
    - (A) the obligor's address and Social Security number;
    - (B) the name and address of the obligor's employer and any other source of income of the obligor; and
    - (C) a description and the location of property of the obligor in this state not exempt from execution; and
  - (5) except as otherwise provided in section 454.1581, the name and address of the obligee and, if applicable, the person to whom support payments are to be remitted.
- (b) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as an order of a tribunal of another state or a foreign support order, together with one copy of the documents and information, regardless of their form.
- (c) A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this state may be filed at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought.
- (d) If two or more orders are in effect, the person requesting registration shall:
- (1) furnish to the tribunal a copy of every support order asserted to be in effect in addition to the documents specified in this section;
  - (2) specify the order alleged to be the controlling order, if any; and
  - (3) specify the amount of consolidated arrears, if any.
- (e) A request for a determination of which is the controlling order may be filed separately or with a request for registration and enforcement or for registration and modification. The person requesting registration shall give notice of the request to each party whose rights may be affected by the determination.

**454.1638. EFFECT OF REGISTRATION FOR ENFORCEMENT.** — (a) A support order or income withholding order issued in another state or a foreign support order is registered when the order is filed in the registering tribunal of this state.

(b) A registered support order issued in another state or a foreign country is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state.

(c) Except as otherwise provided in sections 454.1500 to 454.1728, a tribunal of this state shall recognize and enforce, but may not modify, a registered support order if the issuing tribunal had jurisdiction.

**454.1641. CHOICE OF LAW.** — (a) Except as otherwise provided in subsection (d), the law of the issuing state or foreign country governs:

- (1) the nature, extent, amount, and duration of current payments under a registered support order;
  - (2) the computation and payment of arrearages and accrual of interest on the arrearages under the support order; and
  - (3) the existence and satisfaction of other obligations under the support order.
- (b) In a proceeding for arrears under a registered support order, the statute of limitation of this state or of the issuing state or foreign country, whichever is longer, applies.

(c) A responding tribunal of this state shall apply the procedures and remedies of this state to enforce current support and collect arrears and interest due on a support order of another state or a foreign country registered in this state.

(d) After a tribunal of this state or another state determines which is the controlling order and issues an order consolidating arrears, if any, a tribunal of this state shall prospectively apply the law of the state or foreign country issuing the controlling order, including its law on interest on arrears, on current and future support, and on consolidated arrears.

## Part 2

### CONTEST OF VALIDITY OF ENFORCEMENT

**454.1644. NOTICE OF REGISTRATION OF ORDER.** — (a) When a support order or income withholding order issued in another state or a foreign support order is registered, the registering tribunal of this state shall notify the nonregistering party. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(b) A notice must inform the nonregistering party:

(1) that a registered support order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(2) that a hearing to contest the validity or enforcement of the registered order must be requested within twenty days after notice unless the registered order is under section 454.1698;

(3) that failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages; and

(4) of the amount of any alleged arrearages.

(c) If the registering party asserts that two or more orders are in effect, a notice must also:

(1) identify the two or more orders and the order alleged by the registering party to be the controlling order and the consolidated arrears, if any;

(2) notify the nonregistering party of the right to a determination of which is the controlling order;

(3) state that the procedures provided in subsection (b) apply to the determination of which is the controlling order; and

(4) state that failure to contest the validity or enforcement of the order alleged to be the controlling order in a timely manner may result in confirmation that the order is the controlling order.

(d) Upon registration of an income withholding order for enforcement, the support enforcement agency or the registering tribunal shall notify the obligor's employer pursuant to section 452.350 or 454.505.

**454.1647. PROCEDURE TO CONTEST VALIDITY OR ENFORCEMENT OF REGISTERED SUPPORT ORDER.** — (a) A nonregistering party seeking to contest the validity or enforcement of a registered support order in this state shall request a hearing within the time required by section 454.1644. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to section 454.1650.

(b) If the nonregistering party fails to contest the validity or enforcement of the registered support order in a timely manner, the order is confirmed by operation of law.

(c) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered support order, the registering tribunal shall schedule the matter for hearing and give notice to the parties of the date, time, and place of the hearing.

**454.1650. CONTEST OF REGISTRATION OR ENFORCEMENT.** — (a) A party contesting the validity or enforcement of a registered support order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

- (1) the issuing tribunal lacked personal jurisdiction over the contesting party;
- (2) the order was obtained by fraud;
- (3) the order has been vacated, suspended, or modified by a later order;
- (4) the issuing tribunal has stayed the order pending appeal;
- (5) there is a defense under the law of this state to the remedy sought;
- (6) full or partial payment has been made;
- (7) the statute of limitation under section 454.1641 precludes enforcement of some or all of the alleged arrearages; or
- (8) the alleged controlling order is not the controlling order.

(b) If a party presents evidence establishing a full or partial defense under subsection (a), a tribunal may stay enforcement of a registered support order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered support order may be enforced by all remedies available under the law of this state.

(c) If the contesting party does not establish a defense under subsection (a) to the validity or enforcement of a registered support order, the registering tribunal shall issue an order confirming the order.

**454.1653. CONFIRMED ORDER.** — Confirmation of a registered support order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

### Part 3

## REGISTRATION AND MODIFICATION OF CHILD SUPPORT ORDER OF ANOTHER STATE

**454.1656. PROCEDURE TO REGISTER CHILD SUPPORT ORDER OF ANOTHER STATE FOR MODIFICATION.** — A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state shall register that order in this state in the same manner provided in sections 454.1632 through 454.1653 if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification.

**454.1659. EFFECT OF REGISTRATION FOR MODIFICATION.** — A tribunal of this state may enforce a child support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this state, but the registered support order may be modified only if the requirements of section 454.1662 or 454.1668 have been met.

**454.1662. MODIFICATION OF CHILD SUPPORT ORDER OF ANOTHER STATE.** — (a) If section 454.1668 does not apply, upon petition a tribunal of this state may modify a child support order issued in another state which is registered in this state if, after notice and hearing, the tribunal finds that:

- (1) the following requirements are met:

(A) neither the child, nor the obligee who is an individual, nor the obligor resides in the issuing state;

(B) a petitioner who is a nonresident of this state seeks modification; and

(C) the respondent is subject to the personal jurisdiction of the tribunal of this state;

or

(2) this state is the residence of the child, or a party who is an individual is subject to the personal jurisdiction of the tribunal of this state, and all of the parties who are individuals have filed consents in a record in the issuing tribunal for a tribunal of this state to modify the support order and assume continuing, exclusive jurisdiction.

(b) Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this state and the order may be enforced and satisfied in the same manner.

(c) A tribunal of this state may not modify any aspect of a child support order that may not be modified under the law of the issuing state, including the duration of the obligation of support. If two or more tribunals have issued child support orders for the same obligor and same child, the order that controls and must be so recognized under section 454.1533 establishes the aspects of the support order which are nonmodifiable.

(d) In a proceeding to modify a child support order, the law of the state that is determined to have issued the initial controlling order governs the duration of the obligation of support. The obligor's fulfillment of the duty of support established by that order precludes imposition of a further obligation of support by a tribunal of this state.

(e) On the issuance of an order by a tribunal of this state modifying a child support order issued in another state, the tribunal of this state becomes the tribunal having continuing, exclusive jurisdiction.

(f) Notwithstanding subsections (a) through (e) and subsection (b) of section 454.1515, a tribunal of this state retains jurisdiction to modify an order issued by a tribunal of this state if:

(1) one party resides in another state; and

(2) the other party resides outside the United States.

**454.1665. RECOGNITION OF ORDER MODIFIED IN ANOTHER STATE.** — If a child support order issued by a tribunal of this state is modified by a tribunal of another state which assumed jurisdiction pursuant to the Uniform Interstate Family Support Act, a tribunal of this state:

(1) may enforce its order that was modified only as to arrears and interest accruing before the modification;

(2) may provide appropriate relief for violations of its order which occurred before the effective date of the modification; and

(3) shall recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

**454.1668. JURISDICTION TO MODIFY CHILD SUPPORT ORDER OF ANOTHER STATE WHEN INDIVIDUAL PARTIES RESIDE IN THIS STATE.** — (a) If all of the parties who are individuals reside in this state and the child does not reside in the issuing state, a tribunal of this state has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register that order.

(b) A tribunal of this state exercising jurisdiction under this section shall apply the provisions of Articles 1 and 2, sections 454.1500 to 454.1545; this article, sections 454.1632 to 454.1677, and the procedural and substantive law of this state to the proceeding for enforcement or modification. Article 3, sections 454.1548 to 454.1602; Article 4, sections



454.1605 to 454.1608; Article 5, sections 454.1611 to 454.1629, Article 7, sections 454.1680 to 454.1716; and Article 8, sections 454.1719 to 454.1722, do not apply.

**454.1671. NOTICE TO ISSUING TRIBUNAL OF MODIFICATION.** — Within thirty days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows the earlier order has been registered. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the modified order of the new tribunal having continuing, exclusive jurisdiction.

#### Part 4

### REGISTRATION AND MODIFICATION OF FOREIGN CHILD SUPPORT ORDER

**454.1674. JURISDICTION TO MODIFY CHILD SUPPORT OF FOREIGN COUNTRY.** — (a) Except as otherwise provided in section 454.1710, if a foreign country lacks or refuses to exercise jurisdiction to modify its child support order pursuant to its laws, a tribunal of this state may assume jurisdiction to modify the child support order and bind all individuals subject to the personal jurisdiction of the tribunal whether the consent to modification of a child support order otherwise required of the individual pursuant to section 454.1662 has been given or whether the individual seeking modification is a resident of this state or of the foreign country.

(b) An order issued by a tribunal of this state modifying a foreign child support order pursuant to this section is the controlling order.

**454.1677. PROCEDURE TO REGISTER CHILD SUPPORT ORDER OF FOREIGN COUNTRY FOR MODIFICATION.** — A party or support enforcement agency seeking to modify, or to modify and enforce, a foreign child support order not under the Convention may register that order in this state under sections 454.1632 to 454.1653 if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or at another time. The petition must specify the grounds for modification.

### ARTICLE 7

#### SUPPORT PROCEEDING UNDER CONVENTION

**454.1680. DEFINITIONS.** — In this Article, sections 454.1680 to 454.1716:

(1) "Application" means a request under the Convention by an obligee or obligor, or on behalf of a child, made through a central authority for assistance from another central authority.

(2) "Central authority" means the entity designated by the United States or a foreign country described in section 454.1503(5)(D) to perform the functions specified in the Convention.

(3) "Convention support order" means a support order of a tribunal of a foreign country described in section 454.1503(5)(D).

(4) "Direct request" means a petition filed by an individual in a tribunal of this state in a proceeding involving an obligee, obligor, or child residing outside the United States.

(5) "Foreign central authority" means the entity designated by a foreign country described in section 454.1503(5)(D) to perform the functions specified in the Convention.

(6) "Foreign support agreement":

(A) means an agreement for support in a record that:

- (i) is enforceable as a support order in the country of origin;
  - (ii) has been:
  - (I) formally drawn up or registered as an authentic instrument by a foreign tribunal;
- or
- (II) authenticated by, or concluded, registered, or filed with a foreign tribunal; and
  - (iii) may be reviewed and modified by a foreign tribunal; and
  - (B) includes a maintenance arrangement or authentic instrument under the Convention.
- (7) "United States central authority" means the Secretary of the United States Department of Health and Human Services.

**454.1683. APPLICABILITY.** — This Article, sections 454.1680 to 454.1716, applies only to a support proceeding under the Convention. In such a proceeding, if a provision of this Article, sections 454.1680 to 454.1716, is inconsistent with Articles 1 through 6, sections 454.1500 to 454.1677, this article, sections 454.1680 to 454.1716, controls.

**454.1686. RELATIONSHIP OF GOVERNMENTAL ENTITY TO UNITED STATES AUTHORITY.** — The family support division of this state is recognized as the agency designated by the United States central authority to perform specific functions under the Convention.

**454.1689. INITIATION BY GOVERNMENTAL ENTITY OF SUPPORT PROCEEDING UNDER CONVENTION.** — (a) In a support proceeding under this Article, sections 454.1680 to 454.1716, the family support division of this state shall:

- (1) transmit and receive applications; and
  - (2) initiate or facilitate the institution of a proceeding regarding an application in a tribunal of this state.
- (b) The following support proceedings are available to an obligee under the Convention:
- (1) recognition or recognition and enforcement of a foreign support order;
  - (2) enforcement of a support order issued or recognized in this state;
  - (3) establishment of a support order if there is no existing order, including, if necessary, determination of parentage of a child;
  - (4) establishment of a support order if recognition of a foreign support order is refused under section 454.1701(b)(2), (4), or (9);
  - (5) modification of a support order of a tribunal of this state; and
  - (6) modification of a support order of a tribunal of another state or a foreign country.
- (c) The following support proceedings are available under the Convention to an obligor against which there is an existing support order:
- (1) recognition of an order suspending or limiting enforcement of an existing support order of a tribunal of this state;
  - (2) modification of a support order of a tribunal of this state; and
  - (3) modification of a support order of a tribunal of another state or a foreign country.
- (d) A tribunal of this state may not require security, bond, or deposit, however described, to guarantee the payment of costs and expenses in proceedings under the Convention.

**454.1692. DIRECT REQUEST.** — (a) A petitioner may file a direct request seeking establishment or modification of a support order or determination of parentage of a child. In the proceeding, the law of this state applies.

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(b) A petitioner may file a direct request seeking recognition and enforcement of a support order or support agreement. In the proceeding, sections 454.1695 through 454.1716 apply.

(c) In a direct request for recognition and enforcement of a Convention support order or foreign support agreement:

(1) a security, bond, or deposit is not required to guarantee the payment of costs and expenses; and

(2) an obligee or obligor that in the issuing country has benefited from free legal assistance is entitled to benefit, at least to the same extent, from any free legal assistance provided for by the law of this state under the same circumstances.

(d) A petitioner filing a direct request is not entitled to assistance from the family support division.

(e) This Article, sections 454.1680 to 454.1716, does not prevent the application of laws of this state that provide simplified, more expeditious rules regarding a direct request for recognition and enforcement of a foreign support order or foreign support agreement.

**454.1695. REGISTRATION OF CONVENTION SUPPORT ORDER.** — (a) Except as otherwise provided in this Article, sections 454.1680 to 454.1716, a party who is an individual or a support enforcement agency seeking recognition of a Convention support order shall register the order in this state as provided in Article 6, sections 454.1632 to 454.1677.

(b) Notwithstanding sections 454.1578 and 454.1635(a), a request for registration of a Convention support order must be accompanied by:

(1) a complete text of the support order;

(2) a record stating that the support order is enforceable in the issuing country;

(3) if the respondent did not appear and was not represented in the proceedings in the issuing country, a record attesting, as appropriate, either that the respondent had proper notice of the proceedings and an opportunity to be heard or that the respondent had proper notice of the support order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal;

(4) a record showing the amount of arrears, if any, and the date the amount was calculated;

(5) a record showing a requirement for automatic adjustment of the amount of support, if any, and the information necessary to make the appropriate calculations; and

(6) if necessary, a record showing the extent to which the applicant received free legal assistance in the issuing country.

(c) A request for registration of a Convention support order may seek recognition and partial enforcement of the order.

(d) A tribunal of this state may vacate the registration of a Convention support order without the filing of a contest under section 454.1698 only if, acting on its own motion, the tribunal finds that recognition and enforcement of the order would be manifestly incompatible with public policy.

(e) The tribunal shall promptly notify the parties of the registration or the order vacating the registration of a Convention support order.

**454.1698. CONTEST OF REGISTERED CONVENTION SUPPORT ORDER.** — (a) Except as otherwise provided in this Article, sections 454.1680 to 454.1716, sections 454.1644 to 454.1653 apply to a contest of a registered Convention support order.

(b) A party contesting a registered Convention support order shall file a contest not later than thirty days after notice of the registration, but if the contesting party does not

reside in the United States, the contest must be filed not later than sixty days after notice of the registration.

(c) If the nonregistering party fails to contest the registered Convention support order by the time specified in subsection (b), the order is enforceable.

(d) A contest of a registered Convention support order may be based only on grounds set forth in section 454.1701. The contesting party bears the burden of proof.

(e) In a contest of a registered Convention support order, a tribunal of this state:

(1) is bound by the findings of fact on which the foreign tribunal based its jurisdiction; and

(2) may not review the merits of the order.

(f) A tribunal of this state deciding a contest of a registered Convention support order shall promptly notify the parties of its decision.

(g) A challenge or appeal, if any, does not stay the enforcement of a Convention support order unless there are exceptional circumstances.

**454.1701. RECOGNITION AND ENFORCEMENT OF REGISTERED CONVENTION SUPPORT ORDER.** — (a) Except as otherwise provided in subsection (b), a tribunal of this state shall recognize and enforce a registered Convention support order.

(b) The following grounds are the only grounds on which a tribunal of this state may refuse recognition and enforcement of a registered Convention support order:

(1) recognition and enforcement of the order is manifestly incompatible with public policy, including the failure of the issuing tribunal to observe minimum standards of due process, which include notice and an opportunity to be heard;

(2) the issuing tribunal lacked personal jurisdiction consistent with section 454.1515;

(3) the order is not enforceable in the issuing country;

(4) the order was obtained by fraud in connection with a matter of procedure;

(5) a record transmitted in accordance with section 454.1695 lacks authenticity or integrity;

(6) a proceeding between the same parties and having the same purpose is pending before a tribunal of this state and that proceeding was the first to be filed;

(7) the order is incompatible with a more recent support order involving the same parties and having the same purpose if the more recent support order is entitled to recognition and enforcement under sections 454.1500 to 454.1728 in this state;

(8) payment, to the extent alleged arrears have been paid in whole or in part;

(9) in a case in which the respondent neither appeared nor was represented in the proceeding in the issuing foreign country:

(A) if the law of that country provides for prior notice of proceedings, the respondent did not have proper notice of the proceedings and an opportunity to be heard; or

(B) if the law of that country does not provide for prior notice of the proceedings, the respondent did not have proper notice of the order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal; or

(10) the order was made in violation of section 454.1710.

(c) If a tribunal of this state does not recognize a Convention support order under subsection (b)(2), (4), or (9):

(1) the tribunal may not dismiss the proceeding without allowing a reasonable time for a party to request the establishment of a new Convention support order; and

(2) the family support division shall take all appropriate measures to request a child support order for the obligee if the application for recognition and enforcement was received under section 454.1689.

**454.1704. PARTIAL ENFORCEMENT** — If a tribunal of this state does not recognize and enforce a Convention support order in its entirety, it shall enforce any severable part of the order. An application or direct request may seek recognition and partial enforcement of a Convention support order.

**454.1707. FOREIGN SUPPORT AGREEMENT.** — (a) Except as otherwise provided in subsections (c) and (d), a tribunal of this state shall recognize and enforce a foreign support agreement registered in this state.

(b) An application or direct request for recognition and enforcement of a foreign support agreement must be accompanied by:

(1) a complete text of the foreign support agreement; and

(2) a record stating that the foreign support agreement is enforceable as an order of support in the issuing country.

(c) A tribunal of this state may vacate the registration of a foreign support agreement only if, acting on its own motion, the tribunal finds that recognition and enforcement would be manifestly incompatible with public policy.

(d) In a contest of a foreign support agreement, a tribunal of this state may refuse recognition and enforcement of the agreement if it finds:

(1) recognition and enforcement of the agreement is manifestly incompatible with public policy;

(2) the agreement was obtained by fraud or falsification;

(3) the agreement is incompatible with a support order involving the same parties and having the same purpose in this state, another state, or a foreign country if the support order is entitled to recognition and enforcement under sections 454.1500 to 454.1728 in this state; or

(4) the record submitted under subsection (b) lacks authenticity or integrity.

(e) A proceeding for recognition and enforcement of a foreign support agreement must be suspended during the pendency of a challenge to or appeal of the agreement before a tribunal of another state or a foreign country.

**454.1710. MODIFICATION OF CONVENTION CHILD SUPPORT ORDER.** — (a) A tribunal of this state may not modify a Convention child support order if the obligee remains a resident of the foreign country where the support order was issued unless:

(1) the obligee submits to the jurisdiction of a tribunal of this state, either expressly or by defending on the merits of the case without objecting to the jurisdiction at the first available opportunity; or

(2) the foreign tribunal lacks or refuses to exercise jurisdiction to modify its support order or issue a new support order.

(b) If a tribunal of this state does not modify a Convention child support order because the order is not recognized in this state, section 454.1701(c) applies.

**454.1713. PERSONAL INFORMATION — LIMIT ON USE.** — Personal information gathered or transmitted under this Article, sections 454.1680 to 454.1716, may be used only for the purposes for which it was gathered or transmitted.

**454.1716. RECORD IN ORIGINAL LANGUAGE — ENGLISH TRANSLATION.** — A record filed with a tribunal of this state under this Article, sections 454.1680 to 454.1716, must be in the original language and, if not in English, must be accompanied by an English translation.

## ARTICLE 8 INTERSTATE RENDITION

**454.1719. GROUNDS FOR RENDITION.** — (a) For purposes of this Article, sections 454.1719 to 454.1722, "governor" includes an individual performing the functions of governor or the executive authority of a state covered under sections 454.1500 to 454.1728.

(b) The governor of this state may:

(1) demand that the governor of another state surrender an individual found in the other state who is charged criminally in this state with having failed to provide for the support of an obligee; or

(2) on the demand of the governor of another state, surrender an individual found in this state who is charged criminally in the other state with having failed to provide for the support of an obligee.

(c) A provision for extradition of individuals not inconsistent with sections 454.1500 to 454.1728 applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled therefrom.

**454.1722. CONDITIONS OF RENDITION.** — (a) Before making a demand that the governor of another state surrender an individual charged criminally in this state with having failed to provide for the support of an obligee, the governor of this state may require a prosecutor of this state to demonstrate that at least sixty days previously the obligee had initiated proceedings for support pursuant to sections 454.1500 to 454.1728 or that the proceeding would be of no avail.

(b) If, under sections 454.1500 to 454.1728 or a law substantially similar to sections 454.1500 to 454.1728, the governor of another state makes a demand that the governor of this state surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(c) If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the governor may decline to honor the demand. If the petitioner prevails and the individual whose rendition is demanded is subject to a support order, the governor may decline to honor the demand if the individual is complying with the support order.

## ARTICLE 9 MISCELLANEOUS PROVISIONS

**454.1725. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** — In applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**454.1727. SEVERABILITY.** — If any provision of sections 454.1500 to 454.1728 or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of sections 454.1500 to 454.1728 which can be given effect without the invalid provision or application, and to this end the provisions of sections 454.1500 to 454.1728 are severable.

**454.1728. EFFECTIVE DATE.** — Sections 454.1500 to 454.1728 shall become effective upon the United States filing its instrument of ratification of The Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, adopted at The Hague Conference on Private International Law on November 23, 2007.

**454.1730. APPLICABILITY OF CERTAIN STATE LAWS.** — The provisions of sections 210.817, 210.822, 210.823, 210.834, and 210.836 shall apply to a proceeding under sections 454.1500 to 454.1728, but no other provisions of sections 210.817 through 210.852 shall apply.

**[454.850. DEFINITIONS.** — In sections 454.850 to 454.997:

(1) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

(2) "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state.

(3) "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

(4) "Home state" means the state in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period.

(5) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state.

(6) "Income-withholding order" means an order or other legal process directed to an obligor's employer or other debtor, as defined by section 452.350, RSMo, or 454.505, to withhold support from the income of the obligor.

(7) "Initiating state" means a state from which a proceeding is forwarded or in which a proceeding is filed for forwarding to a responding state under the provisions of sections 454.850 to 454.997 or a law or procedure substantially similar to sections 454.850 to 454.997, or under a law or procedure substantially similar to the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act.

(8) "Initiating tribunal" means the authorized tribunal in an initiating state.

(9) "Issuing state" means the state in which a tribunal issues a support order or renders a judgment determining parentage.

(10) "Issuing tribunal" means the tribunal that issues a support order or renders a judgment determining parentage.

(11) "Law" includes decisional and statutory law and rules and regulations having the force of law.

(12) "Obligee" means:

(i) an individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered;

(ii) a state or political subdivision to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee; or

(iii) an individual seeking a judgment determining parentage of the individual's child.

(13) "Obligor" means an individual, or the estate of a decedent:

(i) who owes or is alleged to owe a duty of support;

(ii) who is alleged but has not been adjudicated to be a parent of a child; or

(iii) who is liable under a support order.

(14) "Register" means to record or file a support order or judgment determining parentage in the tribunal having jurisdiction in such action.

(15) "Registering tribunal" means a tribunal in which a support order is registered.

(16) "Responding state" means a state in which a proceeding is filed or to which a proceeding is forwarded for filing from an initiating state under the provisions of sections 454.850 to 454.997 or a law substantially similar to sections 454.850 to 454.997, or under a law or procedure substantially similar to the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act.

(17) "Responding tribunal" means the authorized tribunal in a responding state.

(18) "Spousal-support order" means a support order for a spouse or former spouse of the obligor.

(19) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States. The term "state" includes:

(i) an Indian tribe; and

(ii) a foreign jurisdiction that has enacted a law or established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under sections 454.850 to 454.997 or the procedures under the uniform reciprocal enforcement of support act or the revised uniform reciprocal enforcement of support act.

(20) "Support enforcement agency" means a public official or agency authorized to seek:

(i) enforcement of support orders or laws relating to the duty of support;

(ii) establishment or modification of child support;

(iii) determination of parentage; or

(iv) to locate obligors or their assets.

(21) "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees, and other relief.

(22) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.]

**[454.853. TRIBUNALS IN MISSOURI.** — The courts and the division of child support enforcement are the tribunals of this state.]

**[454.855. REMEDIES, CUMULATIVE.** — Remedies provided by sections 454.850 to 454.997 are cumulative and do not affect the availability of remedies under other law.]

**[454.857. JURISDICTION, EXTENDED PERSONAL JURISDICTION.** — In a proceeding to establish, enforce, or modify a support order or to determine parentage, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

(1) the individual is personally served with notice within this state;

(2) the individual submits to the jurisdiction of this state by consent, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;

(3) the individual resided with the child in this state;

(4) the individual resided in this state and provided prenatal expenses or support for the child;

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(5) the child resides in this state as a result of the acts or directives of the individual;

(6) the individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse;

(7) the individual asserted parentage in the putative father registry maintained in this state by the department of health and senior services; or

(8) there is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.]

**[454.860. JURISDICTION, EVIDENCE AND DISCOVERY FROM A FOREIGN STATE--CONFLICT OF LAWS.** — A tribunal of this state exercising personal jurisdiction over a nonresident under section 454.857 may apply section 454.917 to receive evidence from another state, and section 454.922 to obtain discovery through a tribunal of another state. In all other respects, sections 454.880 to 454.983 do not apply and the tribunal shall apply the procedural and substantive law of this state, including the rules on choice of law other than those established by sections 454.850 to 454.997.]

**[454.862. TRIBUNAL OF THIS STATE MAY BE INITIATING OR RESPONDING TRIBUNAL.** — Under sections 454.850 to 454.997, a tribunal of this state may serve as an initiating tribunal to forward proceedings to another state and as a responding tribunal for proceedings initiated in another state.]

**[454.865. JURISDICTION MAY BE EXERCISED, WHEN--JURISDICTION NOT PROPER, WHEN.** — (a) A tribunal of this state may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a petition or comparable pleading is filed in another state only if:

(1) the petition or comparable pleading in this state is filed before the expiration of the time allowed in the other state for filing a responsive pleading challenging the exercise of jurisdiction by the other state;

(2) the contesting party timely challenges the exercise of jurisdiction in the other state; and

(3) if relevant, this state is the home state of the child.

(b) A tribunal of this state may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state if:

(1) the petition or comparable pleading in the other state is filed before the expiration of the time allowed in this state for filing a responsive pleading challenging the exercise of jurisdiction by this state;

(2) the contesting party timely challenges the exercise of jurisdiction in this state; and

(3) if relevant, the other state is the home state of the child.]

**[454.867. JURISDICTION, PROCEEDINGS INVOLVING A FOREIGN TRIBUNAL, EXCLUSIVE JURISDICTION, MODIFICATIONS OF ORDERS, LOSS OF EXCLUSIVE JURISDICTION, RECOGNITION OF FOREIGN JURISDICTION, EFFECT OF TEMPORARY SUPPORT ORDER ON JURISDICTION, SPOUSAL SUPPORT ORDER.** — (a) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a child support order:

(1) as long as this state remains the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

(2) until each individual party has filed written consent with the tribunal of this state for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction.

(b) A tribunal of this state issuing a child support order consistent with the law of this state may not exercise its continuing jurisdiction to modify the order if the order has been modified by a tribunal of another state pursuant to sections 454.850 to 454.997 or a law substantially similar to sections 454.850 to 454.997.

(c) If a child support order of this state is modified by a tribunal of another state pursuant to sections 454.850 to 454.997 or a law substantially similar to sections 454.850 to 454.997, a tribunal of this state loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this state, and may only:

(1) enforce the order that was modified as to amounts accruing before the modification;

(2) enforce nonmodifiable aspects of that order; and

(3) provide other appropriate relief for violations of that order which occurred before the effective date of the modification.

(d) A tribunal of this state shall recognize the continuing, exclusive jurisdiction of a tribunal of another state which has issued a child support order pursuant to sections 454.850 to 454.997 or a law substantially similar to sections 454.850 to 454.997.

(e) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

(f) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation. A tribunal of this state may not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state.]

**[454.869. JURISDICTION, PROCEEDINGS INVOLVING A FOREIGN TRIBUNAL, TRIBUNAL REQUESTS TO ENFORCE OR MODIFY SUPPORT ORDERS.** — (a) A tribunal of this state may serve as an initiating tribunal to request a tribunal of another state to enforce or modify a support order issued in that state.

(b) A tribunal of this state having continuing, exclusive jurisdiction over a support order may act as a responding tribunal to enforce or modify the order. If a party subject to the continuing, exclusive jurisdiction of the tribunal no longer resides in the issuing state, in subsequent proceedings the tribunal may apply section 454.917 to receive evidence from another state and section 454.922 to obtain discovery through a tribunal of another state.

(c) A tribunal of this state which lacks continuing, exclusive jurisdiction over a spousal support order may not serve as a responding tribunal to modify a spousal support order of another state.]

**[454.871. JURISDICTION, MULTIPLE SUPPORT ORDERS--WHICH ORDER RECOGNIZED, PROCEDURE.** — (a) If a proceeding is brought under sections 454.850 to 454.997, and only one tribunal has issued a child support order, the order of that tribunal is controlling and must be recognized.

(b) If a proceeding is brought under sections 454.850 to 454.997, and two or more child support orders have been issued by tribunals of this state or another state with regard to the same obligor and child, a tribunal of this state shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:

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(1) If only one of the tribunals would have continuing, exclusive jurisdiction under sections 454.850 to 454.997, the order of that tribunal is controlling and must be recognized.

(2) If more than one of the tribunals would have continuing, exclusive jurisdiction under sections 454.850 to 454.997, an order issued by a tribunal in the current home state of the child must be recognized, but if an order has not been issued in the current home state of the child, the order most recently issued is controlling and must be recognized.

(3) If none of the tribunals would have continuing exclusive jurisdiction under sections 454.850 to 454.997, the tribunal of this state having jurisdiction over the parties must issue a child support order, which is controlling and must be recognized.

(c) If two or more child support orders have been issued for the same obligor and child and if the obligor or the individual obligee resides in this state, a party may request a tribunal of this state to determine which order controls and must be recognized under subsection (b) of this section. The request must be accompanied by a certified copy of every support order in effect. Every party whose rights may be affected by a determination of the controlling order must be given notice of the request for that determination.

(d) The tribunal that issued the order that must be recognized as controlling under subsection (a), (b) or (c) of this section is the tribunal that has continuing, exclusive jurisdiction in accordance with section 454.867.

(e) A tribunal of this state which determines by order the identity of the controlling child support order under subsection (b)(1) or (b)(2) of this section or which issues a new controlling child support order under subsection (b)(3) shall include in that order the basis upon which the tribunal made its determination.

(f) Within thirty days after issuance of the order determining the identity of the controlling order, the party obtaining that order shall file a certified copy of it with each tribunal that had issued or registered an earlier order of child support. Failure of the party obtaining the order to file a certified copy as required subjects that party to appropriate sanctions by a tribunal in which the issue of failure to file arises, but that failure has no effect on the validity or enforceability of the controlling order.]

**[454.874. JURISDICTION, MULTIPLE REGISTRATIONS OR PETITIONS FOR SUPPORT ORDERS, MANNER OF TREATMENT. —** In responding to multiple registrations or petitions for enforcement of two or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state, a tribunal of this state shall enforce those orders in the same manner as if the multiple orders had been issued by a tribunal of this state.]

**[454.877. COLLECTIONS PURSUANT TO ORDER OF FOREIGN TRIBUNAL, CREDITED, HOW. —** Amounts collected and credited for a particular period pursuant to a support order issued by a tribunal of another state must be credited against the amounts accruing or accrued for the same period under a support order issued by the tribunal of this state.]

**[454.880. PROCEEDINGS AUTHORIZED, COMMENCEMENT OF PROCEEDINGS. —**  
(a) Except as otherwise provided in sections 454.850 to 454.997, this article applies to all proceedings under sections 454.850 to 454.997.

(b) Sections 454.850 to 454.997, provide for the following proceedings:

- (1) establishment of an order for spousal support or child support pursuant to section 454.930;
- (2) enforcement of a support order and income withholding order of another state without registration pursuant to sections 454.932 to 454.946;
- (3) registration of an order for spousal support or child support of another state for enforcement pursuant to sections 454.948 to 454.981;
- (4) modification of an order for child support or spousal support issued by a tribunal of this state pursuant to sections 454.862 to 454.869;
- (5) registration of an order for child support of another state for modification pursuant to sections 454.948 to 454.981;
- (6) determination of parentage pursuant to section 454.983; and
- (7) assertion of jurisdiction over nonresidents pursuant to sections 454.857 to 454.860.

(c) An individual petitioner or a support enforcement agency may commence a proceeding authorized under sections 454.850 to 454.997, by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state which has or can obtain personal jurisdiction over the respondent.]

**[454.882. MINOR, PROCEEDING ON BEHALF OF.** — A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child.]

**[454.885. APPLICABLE LAW, CHOICE OF LAW.** — Except as otherwise provided by sections 454.850 to 454.997, a responding tribunal of this state:

- (1) shall apply the procedural and substantive law, including the rules on choice of law, generally applicable to similar proceedings originating in this state and may exercise all powers and provide all remedies available in those proceedings; and
- (2) shall determine the duty of support and the amount payable in accordance with the law and support guidelines of this state.]

**[454.887. COPIES OF PETITION AND DOCUMENTS FORWARDED.** — (a) Upon the filing of a petition authorized by sections 454.850 to 454.997, an initiating tribunal of this state shall forward three copies of the petition and its accompanying documents:

- (1) to the responding tribunal or appropriate support enforcement agency in the responding state; or
- (2) if the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

(b) If a responding state has not enacted the uniform interstate family support act or a law or procedure substantially similar to the uniform interstate family support act, a tribunal of this state may issue a certificate or other documents and make findings required by the law of the responding state. If the responding state is a foreign jurisdiction, the tribunal may specify the amount of support sought and provide other documents necessary to satisfy the requirements of the responding state.]

**[454.890. RECEIPT OF PETITION BY STATE TRIBUNAL, NOTIFICATION OF PETITIONER, POWERS OF COURT.** — (a) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly

pursuant to subsection (c) of section 454.880, it shall cause the petition or pleading to be filed and notify the petitioner where and when it was filed.

(b) A responding tribunal of this state, to the extent otherwise authorized by law, may do one or more of the following:

(1) issue or enforce a support order, modify a child support order, or render a judgment to determine parentage;

(2) order an obligor to comply with a support order, specifying the amount and the manner of compliance;

(3) order income withholding;

(4) determine the amount of any arrearages, and specify a method of payment;

(5) enforce orders by civil or criminal contempt, or both;

(6) set aside property for satisfaction of the support order;

(7) place liens and order execution on the obligor's property;

(8) order an obligor to keep the tribunal informed of the obligor's current residential address, telephone number, employer, address of employment, and telephone number at the place of employment;

(9) issue a bench warrant for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant in any local and state computer systems for criminal warrants;

(10) order the obligor to seek appropriate employment by specified methods;

(11) award reasonable attorney's fees and other fees and costs; and

(12) grant any other available remedy.

(c) A responding tribunal of this state shall include a support order issued under sections 454.850 to 454.997, or in the documents accompanying the order, the calculations on which the support order is based.

(d) A responding tribunal of this state may not condition the payment of a support order issued under sections 454.850 to 454.997, upon compliance by a party with provisions for visitation.

(e) If a responding tribunal of this state issues an order under sections 454.850 to 454.997, the tribunal shall send a copy of the order to the petitioner and the respondent and to the initiating tribunal, if any.]

**[454.892. RECEIPT BY INAPPROPRIATE TRIBUNAL, PETITION AND DOCUMENTS, FORWARDED, NOTIFICATION.** — If a petition or comparable pleading is received by an inappropriate tribunal of this state, it shall forward the pleading and accompanying documents to an appropriate tribunal in this state or another state and notify the petitioner by first class mail where and when the pleading was sent.]

**[454.895. PROCEEDING, SERVICES PROVIDED BY SUPPORT ENFORCEMENT AGENCY.** — (a) A support enforcement agency of this state, upon request, shall provide services to a petitioner in a proceeding under sections 454.850 to 454.997.

(b) A support enforcement agency that is providing services to the petitioner as appropriate shall:

(1) take all steps necessary to enable an appropriate tribunal in this state or another state to obtain jurisdiction over the respondent;

(2) request an appropriate tribunal to set a date, time, and place for a hearing;

(3) make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(4) within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written notice from an initiating, responding, or registering tribunal, send a copy of the notice to the petitioner;

(5) within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written communication from the respondent or the respondent's attorney, send a copy of the communication to the petitioner; and

(6) notify the petitioner if jurisdiction over the respondent cannot be obtained.

(c) Sections 454.850 to 454.997, do not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.]

**[454.897. ATTORNEY GENERAL'S ORDER ON NEGLECT BY SUPPORT ENFORCEMENT AGENCY'S DUTIES.** — If the attorney general determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the attorney general may order the agency to perform its duties under sections 454.850 to 454.997 or may provide those services directly to the individual.]

**[454.900. REPRESENTATION BY COUNSEL.** — An individual may employ private counsel to represent the individual in proceedings authorized by sections 454.850 to 454.997.]

**[454.902. DIVISION OF CHILD SUPPORT ENFORCEMENT IS STATE INFORMATION AGENCY, DUTIES.** — (a) The division of child support enforcement is the state information agency under sections 454.850 to 454.997.

(b) The state information agency shall:

(1) compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under sections 454.850 to 454.997, and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state;

(2) maintain a register of tribunals and support enforcement agencies received from other states;

(3) forward to the appropriate tribunal in the place in this state in which the individual obligee or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under sections 454.850 to 454.997, received from an initiating tribunal or the state information agency of the initiating state; and

(4) obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and Social Security.]

**[454.905. PETITIONS, VERIFICATION REQUIREMENTS.** — (a) A petitioner seeking to establish or modify a support order or to determine parentage in a proceeding under sections 454.850 to 454.997, must verify the petition. Unless otherwise ordered under section 454.907, the petition or accompanying documents must provide, so far as known, the name, residential address, and Social Security numbers of the obligor and the obligee, and the name, sex, residential address, Social Security number, and date of birth of each child for whom support is sought. The petition must be accompanied by a certified copy of any support order in effect. The petition may include any other information that may assist in locating or identifying the respondent.

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(b) The petition must specify the relief sought. The petition and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.]

**[454.907. PLEADINGS, NONDISCLOSURE OF INFORMATION.** — Upon a finding, which may be made ex parte, that the health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information, or if an existing order so provides, a tribunal shall order that the address of the child or party or other identifying information not be disclosed in a pleading or other document filed in a proceeding under sections 454.850 to 454.997.]

**[454.910. PAYMENT OF FEES AND COSTS, ATTORNEY'S FEES.** — (a) The petitioner may not be required to pay a filing fee or other costs.

(b) If an obligee prevails, a responding tribunal may assess against an obligor filing fees, reasonable attorney's fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or the responding state, except as provided by other law. Attorney's fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs and expenses.

(c) The tribunal shall order the payment of costs and reasonable attorney's fees if it determines that a hearing was requested primarily for delay. In a proceeding under sections 454.948 to 454.981, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.]

**[454.912. JURISDICTION, PERSONAL, NOT OBTAINED FOR ANOTHER PROCEEDING, IMMUNITY FROM SERVICE OF PROCESS, WHEN.** — (a) Participation by a petitioner in a proceeding before a responding tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the petitioner in another proceeding.

(b) A petitioner is not amenable to service of civil process while physically present in this state to participate in a proceeding under sections 454.850 to 454.997.

(c) The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under sections 454.850 to 454.997, committed by a party while present in this state to participate in the proceeding.]

**[454.915. PARENTAGE, PREVIOUS DETERMINATION, EFFECT ON DEFENSE OF NONPARENTAGE.** — A party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense to a proceeding under sections 454.850 to 454.997.]

**[454.917. PRESENCE OF PETITIONER FOR JURISDICTION OF TRIBUNAL, EVIDENCE ADMISSIBLE.** — (a) The physical presence of the petitioner in a responding tribunal of this state is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage.

(b) A verified petition, affidavit, document substantially complying with federally mandated forms, and a document incorporated by reference in any of them, not excluded under the hearsay rule if given in person, is admissible in evidence if given under oath by a party or witness residing in another state.

(c) A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it, and is admissible to show whether payments were made.

(d) Copies of bills for testing for parentage, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least ten days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

(e) Documentary evidence transmitted from another state to a tribunal of this state by telephone, telecopier, or other means that do not provide an original writing may not be excluded from evidence on an objection based on the means of transmission.

(f) In a proceeding under sections 454.850 to 454.997, a tribunal of this state may permit a party or witness residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means at a designated tribunal or other location in that state. A tribunal of this state shall cooperate with tribunals of other states in designating an appropriate location for the deposition or testimony.

(g) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

(h) A privilege against disclosure of communications between spouses does not apply in a proceeding under sections 454.850 to 454.997.

(i) The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under sections 454.850 to 454.997.]

**[454.920. INQUIRIES BETWEEN TRIBUNALS, COMMUNICATION MEANS PERMITTED.** — A tribunal of this state may communicate with a tribunal of another state in writing, or by telephone or other means, to obtain information concerning the laws of that state, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding in the other state. A tribunal of this state may furnish similar information by similar means to a tribunal of another state.]

**[454.922. DISCOVERY, REQUEST OF ASSISTANCE BETWEEN TRIBUNALS.** — A tribunal of this state may:

- (1) request a tribunal of another state to assist in obtaining discovery; and
- (2) upon request, compel a person over whom it has jurisdiction to respond to a discovery order issued by a tribunal of another state.]

**[454.927. DISBURSEMENTS, STATEMENT FURNISHED.** — A support enforcement agency or tribunal of this state shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another state a certified statement by the custodian of the record of the amounts and dates of all payments received.]

**[454.930. SUPPORT ORDERS ISSUED, WHEN, TEMPORARY CHILD SUPPORT ORDER ISSUED, WHEN.** — (a) If a support order entitled to recognition under sections 454.850 to 454.997, has not been issued, a responding tribunal of this state may issue a support order if:

- (1) the individual seeking the order resides in another state; or
  - (2) the support enforcement agency seeking the order is located in another state.
- (b) The tribunal may issue a temporary child support order if:



- (1) the respondent has signed a verified statement acknowledging parentage;
- (2) the respondent has been determined by or pursuant to law to be the parent; or
- (3) there is other clear and convincing evidence that the respondent is the child's parent.

(c) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to section 454.890.]

**[454.932. INCOME WITHHOLDING ORDER, ISSUED IN ANOTHER STATE.** — An income withholding order issued in another state may be sent to the person or entity defined as the obligor's employer under section 452.350, RSMo, or section 454.505 without first filing a petition or comparable pleading or registering the order with a tribunal of this state.]

**[454.934. INCOME WITHHOLDING ORDERS, EMPLOYER'S DUTIES.** — (a) Upon receipt of the order, the obligor's employer shall immediately provide a copy of the order to the obligor.

(b) The employer shall treat an income withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this state.

(c) Except as provided in subsection (d) of this section and section 454.936, the employer shall withhold and distribute the funds as directed in the withholding order by complying with the terms of the order, as applicable, that specify:

- (1) the duration and the amount of periodic payments of current child support, stated as a sum certain;
- (2) the person or agency designated to receive payments and the address to which the payments are to be forwarded;
- (3) medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment;
- (4) the amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sums certain; and
- (5) the amount of periodic payments of arrears and interest on arrears, stated as sums certain.

(d) The employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to:

- (1) the employer's fee for processing an income withholding order;
- (2) the maximum amount permitted to be withheld from the obligor's income;
- (3) the time periods within which the employer must implement the withholding order and forward the child support payment.]

**[454.936. MULTIPLE ORDERS TO WITHHOLD SUPPORT, COMPLIANCE OF EMPLOYER, WHEN.** — If the obligor's employer receives multiple orders to withhold support from the earnings of the same obligor, the employer shall be deemed to have satisfied the terms of the multiple orders if the employer complied with the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for multiple child support orders.]

**[454.938. IMMUNITY FROM CIVIL LIABILITY OF EMPLOYER FOR COMPLIANCE.** — An employer who complies with an income withholding order issued in another state in accordance with sections 454.932 to 454.946, is not subject to civil liability to any

individual or agency with regard to the employer's withholding child support from the obligor's income.]

**[454.941. PENALTIES FOR NONCOMPLIANCE OF EMPLOYER. —** An employer who willfully fails to comply with an income withholding order issued by another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this state.]

**[454.943. VALIDITY OF INCOME WITHHOLDING CONTESTED, PROCEDURE. —** (a) An obligor may contest the validity or enforcement of an income withholding order issued in another state and received directly by an employer in this state in the same manner as if the order had been issued by a tribunal of this state. Section 454.956 applies to the contest.

(b) The obligor shall give notice of the contest to:

- (1) a support enforcement agency providing services to the obligee;
- (2) each employer which has directly received an income withholding order; and
- (3) the person or agency designated to receive payments in the income withholding order, or if no person or agency is designated, to the obligee.]

**[454.946. FOREIGN TRIBUNAL'S ORDER ENFORCED, WHEN, PROCEDURE. —** (a) A party seeking to enforce a support order or an income withholding order, or both, issued by a tribunal of another state may send the documents required for registering the order to a support enforcement agency of this state.

(b) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this state to enforce a support order or an income withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to sections 454.850 to 454.997.]

**[454.948. REGISTRATION OF A FOREIGN TRIBUNAL'S ORDER REQUIRED. —** A support order or an income withholding order issued by a tribunal of another state may be registered in this state for enforcement.]

**[454.951. PROCEDURE FOR REGISTERING A FOREIGN TRIBUNAL'S ORDER. —** (a) A support order or income withholding order of another state may be registered in this state by sending the following documents and information to the appropriate tribunal in this state:

- (1) a letter of transmittal to the tribunal requesting registration and enforcement;
- (2) two copies, including one certified copy, of all orders to be registered, including any modification of an order;
- (3) a sworn statement by the party seeking registration or a certified statement by the custodian of the records showing the amount of any arrearage;
- (4) the name of the obligor and, if known:
  - (i) the obligor's address and Social Security number;
  - (ii) the name and address of the obligor's employer and any other source of income of the obligor; and
  - (iii) a description and the location of property of the obligor in this state not exempt from execution; and

(5) the name and address of the obligee and, if applicable, the agency or person to whom support payments are to be remitted.

(b) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as a foreign judgment, together with one copy of the documents and information, regardless of their form.

(c) A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this state may be filed at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought.]

**[454.953. REGISTRATION IS COMPLETE AND ENFORCEABLE WHEN.** — (a) A support order or income withholding order issued in another state is registered when the order is filed in the registering tribunal of this state.

(b) A registered order issued in another state is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state.

(c) Except as otherwise provided in sections 454.948 to 454.981, a tribunal of this state shall recognize and enforce, but may not modify, a registered order if the issuing tribunal had jurisdiction.]

**[454.956. ISSUING STATE LAW GOVERNS--STATUTE OF LIMITATIONS.** — (a) The law of the issuing state governs the nature, extent, amount, and duration of current payments and other obligations of support and the payment of arrearages under the order.

(b) In a proceeding for arrearages, the statute of limitation under the laws of this state or of the issuing state, whichever is longer, applies.]

**[454.958. NOTIFICATION OF NONREGISTERING PARTY, PROCEDURE.** — (a) When a support order or income withholding order issued in another state is registered, the registering tribunal shall notify the nonregistering party. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(b) The notice must inform the nonregistering party:

(1) that a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(2) that a hearing to contest the validity or enforcement of the registered order must be requested within twenty days after the date of mailing or personal service of the notice;

(3) that failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted; and

(4) of the amount of any alleged arrearages.

(c) Upon registration of an income withholding order for enforcement, the registering tribunal shall notify the obligor's employer pursuant to section 452.350, RSMo, or section 454.505.]

**[454.961. NONREGISTERING PARTY'S CONTEST OF A SUPPORT ORDER, PROCEDURE, EFFECT.** — (a) A nonregistering party seeking to contest the validity or enforcement of a registered order in this state shall request a hearing within twenty days after the date of mailing or personal service of notice of the registration. The nonregistering party may seek to vacate the registration, to assert any defense to an

allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to section 454.963.

(b) If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.

(c) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered order, the registering tribunal shall schedule the matter for hearing and give notice to the parties of the date, time, and place of the hearing.]

**[454.963. BURDEN OF PROOF, CONTEST BY NONREGISTERING PARTY.** — (a) A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

- (1) the issuing tribunal lacked personal jurisdiction over the contesting party;
- (2) the order was obtained by fraud;
- (3) the order has been vacated, suspended, or modified by a later order;
- (4) the issuing tribunal has stayed the order pending appeal;
- (5) there is a defense under the law of this state to the remedy sought;
- (6) full or partial payment has been made; or
- (7) the statute of limitation under section 454.956 precludes enforcement of some or all of the arrearages.

(b) If a party presents evidence establishing a full or partial defense under subsection (a), a tribunal may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered order may be enforced by all remedies available under the law of this state.

(c) If the contesting party does not establish a defense under subsection (a) to the validity or enforcement of the order, the registering tribunal shall issue an order confirming the order.]

**[454.966. CONFIRMATION OF REGISTRATION.** — Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.]

**[454.968. MODIFICATIONS OF FOREIGN TRIBUNAL'S ORDERS REGISTERED HOW, WHEN.** — A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state shall register that order in this state in the same manner provided in sections 454.948 to 454.956 if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification.]

**[454.971. MODIFICATIONS OF FOREIGN TRIBUNAL'S ORDERS ENFORCED, WHEN.** — A tribunal of this state may enforce a child support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this state, but the registered order may be modified only if the requirements of section 454.973 have been met.]

**[454.973. MODIFICATION OF AN ORDER ISSUED IN A FOREIGN TRIBUNAL PERMITTED, WHEN.** — (a) After a child support order issued in another state has been registered in this state, unless the provisions of section 454.978 apply, the responding tribunal of this state may modify that order only if, after notice and hearing, it finds that:

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- (1) the following requirements are met:
  - (i) the child, the individual obligee, and the obligor do not reside in the issuing state;
  - (ii) a petitioner who is a nonresident of this state seeks modification; and
  - (iii) the respondent is subject to the personal jurisdiction of the tribunal of this state;
- or
- (2) an individual party or the child is subject to the personal jurisdiction of the tribunal and all of the individual parties have filed a written consent in the issuing tribunal providing that a tribunal of this state may modify the support order and assume continuing, exclusive jurisdiction over the order. However, if the issuing state is a foreign jurisdiction which has not enacted the Uniform Interstate Family Support Act, as amended, the written consent of the individual party residing in this state is not required for the tribunal to assume jurisdiction to modify the child support order.
- (b) Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this state and the order may be enforced and satisfied in the same manner.
- (c) A tribunal of this state may not modify any aspect of a child support order that may not be modified under the law of the issuing state. If two or more tribunals have issued child support orders for the same obligor and child, the order that is controlling and must be recognized under the provisions of section 454.871 establishes the nonmodifiable aspects of the support order.
- (d) On issuance of an order modifying a child support order issued in another state, a tribunal of this state becomes the tribunal of continuing, exclusive jurisdiction.]

**[454.976. RECOGNITION OF A FOREIGN TRIBUNAL'S MODIFICATION OF THIS STATE'S ORDER, WHEN.]** — A tribunal of this state shall recognize a modification of its earlier child support order by a tribunal of another state which assumed jurisdiction pursuant to sections 454.850 to 454.997 or a law substantially similar to sections 454.850 to 454.997 and, upon request, except as otherwise provided in sections 454.850 to 454.997 shall:

- (1) enforce the order that was modified only as to amounts accruing before the modification;
- (2) enforce only nonmodifiable aspects of that order;
- (3) provide other appropriate relief only for violations of that order which occurred before the effective date of the modification; and
- (4) recognize the modifying order of the other state, upon registration, for the purpose of enforcement.]

**[454.978. JURISDICTION FOR A CHILD SUPPORT PROCEEDING.]** — (a) If all of the individual parties reside in this state and the child does not reside in the issuing state, a tribunal of this state has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register that order.

(b) A tribunal of this state exercising jurisdiction as provided in this section shall apply the provisions of sections 454.850 to 454.877 and sections 454.948 to 454.981 to the enforcement or modification proceeding. Sections 454.880 to 454.946 and sections 454.983 to 454.989 do not apply and the tribunal shall apply the procedural and substantive law of this state.]

**[454.981. CERTIFIED COPY OF A MODIFICATION FILED WITH ISSUING TRIBUNAL.]** — Within thirty days after issuance of a modified child support order, the

party obtaining the modification shall file a certified copy of the order with the issuing tribunal which had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows that earlier order has been registered. Failure of the party obtaining the order to file a certified copy as required subjects that party to appropriate sanctions by a tribunal in which the issue of failure to file arises, but that failure has no effect on the validity or enforceability of the modified order of the new tribunal of continuing, exclusive jurisdiction.]

**[454.983. DETERMINATION OF PARENTAGE--WHICH TRIBUNAL.** — (a) A tribunal of this state may serve as an initiating or responding tribunal in a proceeding brought under sections 454.850 to 454.997 or a law or procedure substantially similar to sections 454.850 to 454.997, or a law or procedure substantially similar to the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act to determine that the petitioner is a parent of a particular child or to determine that a respondent is a parent of that child.

(b) In a proceeding to determine parentage, a responding tribunal of this state shall apply the procedural and substantive law of this state and the rules of this state on choice of law.]

**[454.986. GOVERNOR, DEFINED, DUTIES.** — (a) For purposes of this article, "governor" includes an individual performing the functions of governor or the executive authority of a state covered by sections 454.850 to 454.997.

(b) The governor of this state may:

(1) demand that the governor of another state surrender an individual found in the other state who is charged criminally in this state with having failed to provide for the support of an obligee; or

(2) on the demand by the governor of another state, surrender an individual found in this state who is charged criminally in the other state with having failed to provide for the support of an obligee.

(c) A provision for extradition of individuals not inconsistent with sections 454.850 to 454.997, applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled therefrom.]

**[454.989. SURRENDER OF A PARENT CHARGED WITH FAILURE TO PROVIDE SUPPORT, PROCEDURE.** — (a) Before making demand that the governor of another state surrender an individual charged criminally in this state with having failed to provide for the support of an obligee, the governor of this state may require a prosecutor of this state to demonstrate that at least sixty days previously the obligee had initiated proceedings for support pursuant to sections 454.850 to 454.997 or that the proceeding would be of no avail.

(b) If, under sections 454.850 to 454.997 or a law substantially similar to sections 454.850 to 454.997, the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act, the governor of another state makes a demand that the governor of this state surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

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(c) If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the governor may decline to honor the demand. If the petitioner prevails and the individual whose rendition is demanded is subject to a support order, the governor may decline to honor the demand if the individual is complying with the support order.]

**[454.991. CONSTRUCTION AND APPLICATION OF SECTIONS 454.850 TO 454.997.]** — Sections 454.850 to 454.997 shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of sections 454.850 to 454.997 among states enacting it.]

**[454.993. CITATION OF THE UNIFORM INTERSTATE FAMILY SUPPORT ACT.]** — Sections 454.850 to 454.997 may be cited as the "Uniform Interstate Family Support Act".]

**[454.995. SEVERABILITY.]** — If any provision of sections 454.850 to 454.997 or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of sections 454.850 to 454.997, which can be given effect without the invalid provision or application, and to this end the provisions of 454.850 to 454.997 are severable.]

**[454.999. APPLICABILITY OF CERTAIN STATUTES.]** — The provisions of sections 210.822 and 210.834, RSMo, shall apply to a proceeding under sections 454.850 to 454.997, but no other provisions of sections 210.817 through 210.852, RSMo, shall apply.]

**SECTION B. EFFECTIVE DATE OF REPEAL OF ACT.** — The repeal of sections 454.850 to 454.999 of section A of this act shall become effective upon the United States filing its instrument of ratification of The Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, adopted at The Hague Conference on Private International Law on November 23, 2007.

Approved June 30, 2011

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## HB 265 [SS SCS HCS HB 265]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Changes the laws regarding professional registration**

AN ACT to repeal sections 324.043, 333.041, 333.042, 333.051, 333.061, 333.091, 333.151, 333.171, 334.040, 334.070, 334.090, 334.100, 334.102, 334.103, 334.715, 436.405, 436.412, 436.445, 436.450, 436.455, 436.456, 536.063, 536.067, 536.070, 621.045, 621.100, and 621.110, RSMo, and to enact in lieu thereof thirty-two new sections relating to licensure of certain professions.

**SECTION**

- A. Enacting clause.
- 324.014. License status, change in to be reported to current employer by licensing body.
- 324.043. Statute of limitations for disciplinary proceedings — notice requirements — tolling, when.
- 324.045. Default decision entered, when — set aside, when — good cause defined.
- 333.041. Qualifications of applicants — examinations — licenses — board may waive requirements in certain cases.
- 333.042. Application and examination fees for funeral directors, apprenticeship requirements — examination content for applicants — apprenticeship duties — appearance before board — limited license only for cremation — exemptions from apprenticeship.
- 333.051. Recognition of persons licensed in other states — fees.
- 333.061. No funeral establishment to be operated by unlicensed person — license requirements, application procedure — license may be suspended or revoked or not renewed.
- 333.091. License to be displayed.
- 333.151. Board members — qualifications — terms — vacancies.
- 333.171. Board meetings — notice — seal.
- 334.001. Open records subject to release — board disclosure of confidential information, when.
- 334.040. Examination of applicants, how conducted, grades required, time limitations, extensions.
- 334.070. Issuance of certificates of registration to licensees, contents — relocation, notification required.
- 334.090. Fees, amounts, how set.
- 334.099. Contested hearing, when, procedure — revocation of license, when — hearing to resume practice, when — rulemaking authority.
- 334.100. Denial, revocation or suspension of license, alternatives, grounds for — reinstatement provisions.
- 334.102. Emergency suspension or restriction, when, procedure — removal from record, when — disciplinary proceedings permitted, when — judicial review, when.
- 334.103. Automatic revocation or reinstatement of license, grounds.
- 334.108. Internet prescriptions and treatment, establishment of physician-patient relationship required.
- 334.715. Refusal to issue or renew license, grounds, alternatives — complaint procedure — reinstatement, procedure.
- 436.405. Definitions.
- 436.412. Violations, disciplinary actions authorized — governing law for contracts.
- 436.445. Trustee not to make decisions, when.
- 436.450. Insurance-funded preneed contract requirements.
- 436.455. Joint account-funded preneed contract requirements.
- 436.456. Cancellation of contract, when, procedure.
- 536.063. Contested case, how instituted — pleadings — copies sent parties.
- 536.067. Notice in contested case — mailing — contents — notice of hearing — time for.
- 536.070. Evidence — witnesses — objections — judicial notice — affidavits as evidence — transcript.
- 621.045. Commission to conduct hearings, make determinations — boards included — settlement agreements, default decision, when.
- 621.100. Complaints — notice — agency may retain counsel — default decision, when — affidavit regarding licensee's status, procedure.
- 621.110. Commission's findings and recommendations — hearing by agency on disciplinary action.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 324.043, 333.041, 333.042, 333.051, 333.061, 333.091, 333.151, 333.171, 334.040, 334.070, 334.090, 334.100, 334.102, 334.103, 334.715, 436.405, 436.412, 436.445, 436.450, 436.455, 436.456, 536.063, 536.067, 536.070, 621.045, 621.100, and 621.110, RSMo, are repealed and thirty-two new sections enacted in lieu thereof, to be known as sections 324.014, 324.043, 324.045, 333.041, 333.042, 333.051,



333.061, 333.091, 333.151, 333.171, 334.001, 334.040, 334.070, 334.090, 334.099, 334.100, 334.102, 334.103, 334.108, 334.715, 436.405, 436.412, 436.445, 436.450, 436.455, 436.456, 536.063, 536.067, 536.070, 621.045, 621.100, and 621.110, to read as follows:

**324.014. LICENSE STATUS, CHANGE IN TO BE REPORTED TO CURRENT EMPLOYER BY LICENSING BODY. — Any board, commission, committee, council, or office within the division of professional registration shall notify any known current employer of a change in a licensee's license and discipline status. An employer may provide a list of current licensed employees and make a request in writing to the board, commission, committee, council, or office within the division of professional registration responsible for the licensee's license, to be notified upon a change in the licensing status of any such licensed employee. Nothing in this section shall be construed as requiring the board, commission, committee, council, or office within the division of professional registration to determine the current employer of any person whose license is sanctioned.**

**324.043. STATUTE OF LIMITATIONS FOR DISCIPLINARY PROCEEDINGS — NOTICE REQUIREMENTS — TOLLING, WHEN. —** 1. Except as provided in this section, no disciplinary proceeding against any person or entity licensed, registered, or certified to practice a profession within the division of professional registration shall be initiated unless such action is commenced within three years of the date upon which the licensing, registering, or certifying agency received notice of an alleged violation of an applicable statute or regulation.

2. For the purpose of this section, notice shall be limited to:

- (1) A written complaint;
- (2) Notice of final disposition of a malpractice claim, including exhaustion of all extraordinary remedies and appeals;
- (3) Notice of exhaustion of all extraordinary remedies and appeals of a conviction based upon a criminal statute of this state, any other state, or the federal government;
- (4) Notice of exhaustion of all extraordinary remedies and appeals in a disciplinary action by a hospital, state licensing, registering or certifying agency, or an agency of the federal government.

3. For the purposes of this section, an action is commenced when a complaint is filed by the agency with the administrative hearing commission, any other appropriate agency, or in a court; or when a complaint is filed by the agency's legal counsel with the agency in respect to an automatic revocation or a probation violation.

4. Disciplinary proceedings based upon repeated negligence shall be exempt from all limitations set forth in this section.

5. Disciplinary proceedings based upon a complaint involving sexual misconduct shall be exempt from all limitations set forth in this section.

6. Any time limitation provided in this section shall be tolled:

- (1) During any time the accused licensee, registrant, or certificant is practicing exclusively outside the state of Missouri or residing outside the state of Missouri and not practicing in Missouri;
- (2) As to an individual complainant, during the time when such complainant is less than eighteen years of age;
- (3) During any time the accused licensee, registrant, or certificant maintains legal action against the agency; or
- (4) When a settlement agreement is offered to the accused licensee, registrant, or certificant, in an attempt to settle such disciplinary matter without formal proceeding pursuant to section 621.045 until the accused licensee, registrant, or certificant rejects or accepts the settlement agreement.

7. The licensing agency may, in its discretion, toll any time limitation when the accused **applicant**, licensee, registrant, or certificant enters into and participates in a treatment program for chemical dependency or mental impairment.

**324.045. DEFAULT DECISION ENTERED, WHEN — SET ASIDE, WHEN — GOOD CAUSE DEFINED. —** 1. Notwithstanding any provision of chapter 536, in any proceeding initiated by the division of professional registration or any board, committee, commission, or office within the division of professional registration to determine the appropriate level of discipline or additional discipline, if any, against a licensee of the board, committee, commission, or office within the division, if the licensee against whom the proceeding has been initiated upon a properly pled writing filed to initiate the contested case and upon proper notice fails to plead or otherwise defend against the proceeding, the board, commission, committee, or office within the division shall enter a default decision against the licensee without further proceedings. The terms of the default decision shall not exceed the terms of discipline authorized by law for the division, board, commission, or committee. The division, office, board, commission, or committee shall provide the licensee notice of the default decision in writing.

2. Upon motion stating facts constituting a meritorious defense and for good cause shown, a default decision may be set aside. The motion shall be made within a reasonable time, not to exceed thirty days after entry of the default decision. "Good cause" includes a mistake or conduct that is not intentionally or recklessly designed to impede the administrative process.

**333.041. QUALIFICATIONS OF APPLICANTS — EXAMINATIONS — LICENSES — BOARD MAY WAIVE REQUIREMENTS IN CERTAIN CASES. —** 1. Each applicant for a license to practice funeral directing shall furnish evidence to establish to the satisfaction of the board that he or she is:

(1) At least eighteen years of age, and possesses a high school diploma, **a general equivalency diploma**, or equivalent thereof, **as determined, at its discretion, by the board; and**

(2) [Either a citizen or a bona fide resident of the state of Missouri or entitled to a license pursuant to section 333.051, or a resident in a county contiguous and adjacent to the state of Missouri who is employed by a funeral establishment located within the state of Missouri, to practice funeral directing upon the grant of a license to do so; and

(3)] A person of good moral character.

2. Every person desiring to enter the profession of embalming dead human bodies within the state of Missouri and who is enrolled in [an] **a program** accredited [institution of mortuary science education] **by the American Board of Funeral Service Education, any successor organization, or other accrediting entity as approved by the board**, shall register with the board as a practicum student upon the form provided by the board. After such registration, a student may assist, under the direct supervision of Missouri licensed embalmers and funeral directors, in Missouri licensed funeral establishments, while serving his or her practicum [for the accredited institution of mortuary science education]. The form for registration as a practicum student shall be accompanied by a fee in an amount established by the board.

3. Each applicant for a license to practice embalming shall furnish evidence to establish to the satisfaction of the board that he or she:

(1) Is at least eighteen years of age, and possesses a high school diploma, **a general equivalency diploma**, or equivalent thereof, **as determined, at its discretion, by the board;**

(2) [Is either a citizen or bona fide resident of the state of Missouri or entitled to a license pursuant to section 333.051, or a resident in a county contiguous and adjacent to the state of Missouri who is employed by a funeral establishment located within the state of Missouri, to practice embalming upon the grant of a license to do so;

(3)] Is a person of good moral character;

[(4)] **(3)** Has [graduated from an institute of mortuary science education] **completed a funeral service education program** accredited by the American Board of Funeral Service Education, [or] any successor organization [recognized by the United States Department of Education, for funeral service education] , **or other accrediting entity as approved by the board**. If an applicant does not [appear for the final examination before the board] **complete all requirements for licensure** within five years from the date of his or her [graduation from] **completion of an accredited [institution of mortuary science education] program**, his or her registration as [a student] **an apprentice** embalmer shall be automatically canceled. **The applicant shall be required to file a new application and pay applicable fees. No previous apprenticeship shall be considered for the new application;**

[(5)] **(4)** Upon due examination administered by the board, is possessed of a knowledge of the subjects of embalming, anatomy, pathology, bacteriology, mortuary administration, chemistry, restorative art, together with statutes, rules and regulations governing the care, custody, shelter and disposition of dead human bodies and the transportation thereof or has passed the national board examination of the Conference of Funeral Service Examining Boards. If any applicant fails to pass the state examination, he or she may retake the examination at the next regular examination meeting. The applicant shall notify the board office of his or her desire to retake the examination at least thirty days prior to the date of the examination. Each time the examination is retaken, the applicant shall pay a new examination fee in an amount established by the board;

[(6)] **(5)** Has been employed full time in funeral service in a licensed funeral establishment and has personally embalmed at least twenty-five dead human bodies under the personal supervision of an embalmer who holds a current and valid Missouri embalmer's license or an embalmer who holds a current and valid embalmer's license in a state with which the Missouri board has entered into a reciprocity agreement during an apprenticeship of not less than twelve consecutive months. "Personal supervision" means that the licensed embalmer shall be physically present during the entire embalming process in the first six months of the apprenticeship period and physically present at the beginning of the embalming process and available for consultation and personal inspection within a period of not more than one hour in the remaining six months of the apprenticeship period. All transcripts and other records filed with the board shall become a part of the board files.

4. If the applicant does not [appear for oral examination] **complete the application process** within the five years after his or her [graduation from an accredited institution of mortuary science education] **completion of an approved program**, then he or she must file a new application and no fees paid previously shall apply toward the license fee.

5. Examinations required by this section and section 333.042 shall be held at least twice a year at times and places fixed by the board. The board shall by rule and regulation prescribe the standard for successful completion of the examinations.

6. Upon establishment of his or her qualifications as specified by this section or section 333.042, the board shall issue to the applicant a license to practice funeral directing or embalming, as the case may require, and shall register the applicant as a duly licensed funeral director or a duly licensed embalmer. Any person having the qualifications required by this section and section 333.042 may be granted both a license to practice funeral directing and to practice embalming.

7. The board shall, upon request, waive any requirement of this chapter and issue a temporary funeral director's license, valid for six months, to the surviving spouse or next of kin or the personal representative of a licensed funeral director, or to the spouse, next of kin, employee or conservator of a licensed funeral director disabled because of sickness, mental incapacity or injury.

**333.042. APPLICATION AND EXAMINATION FEES FOR FUNERAL DIRECTORS, APPRENTICESHIP REQUIREMENTS — EXAMINATION CONTENT FOR APPLICANTS — APPRENTICESHIP DUTIES — APPEARANCE BEFORE BOARD — LIMITED LICENSE ONLY FOR CREMATION — EXEMPTIONS FROM APPRENTICESHIP.** — 1. Every person desiring to enter the profession of funeral directing in this state shall make application with the state board of embalmers and funeral directors and pay the current application and examination fees. **Except as otherwise provided in section 41.950,** applicants not entitled to a license pursuant to section 333.051 shall serve an apprenticeship for at least twelve **consecutive** months in a funeral establishment licensed for the care and preparation for burial and transportation of the human dead in this state or in another state which has established standards for admission to practice funeral directing equal to, or more stringent than, the requirements for admission to practice funeral directing in this state. The applicant shall devote at least fifteen hours per week to his or her duties as an apprentice under the supervision of a Missouri licensed funeral director. Such applicant shall submit proof to the board, on forms provided by the board, that the applicant has arranged and conducted ten funeral services during the applicant's apprenticeship under the supervision of a Missouri licensed funeral director. Upon completion of the apprenticeship, the applicant shall appear before the board to be tested on the applicant's legal and practical knowledge of funeral directing, funeral home licensing, preneed funeral contracts and the care, custody, shelter, disposition and transportation of dead human bodies. Upon acceptance of the application and fees by the board, an applicant shall have twenty-four months to successfully complete the requirements for licensure found in this section or the application for licensure shall be canceled.

2. If a person applies for a limited license to work only in a funeral establishment which is licensed only for cremation, including transportation of dead human bodies to and from the funeral establishment, he or she shall make application, pay the current application and examination fee and successfully complete the Missouri law examination. He or she shall be exempt from the twelve-month apprenticeship **required by subsection 1 of this section** and the practical examination before the board. If a person has a limited license issued pursuant to this subsection, he or she may obtain a full funeral director's license if he or she fulfills the apprenticeship and successfully completes the funeral director practical examination.

3. If an individual is a Missouri licensed embalmer or has [graduated from an institute of mortuary science education] **completed a program** accredited by the American Board of Funeral Service Education [or] , any successor organization [recognized by the United States Department of Education for funeral service education], **or other accrediting entity as approved by the board** or has successfully completed a course of study in funeral directing offered by [a college] **an institution** accredited by a recognized national, regional or state accrediting body and approved by the state board of embalmers and funeral directors, and desires to enter the profession of funeral directing in this state, the individual shall comply with all the requirements for licensure as a funeral director pursuant to subsection 1 of section 333.041 and subsection 1 of this section; however, the individual is exempt from the twelve-month apprenticeship required by subsection 1 of this section.

**333.051. RECOGNITION OF PERSONS LICENSED IN OTHER STATES — FEES.** — 1. Any [nonresident] individual holding a valid, unrevoked and unexpired license as a funeral director or embalmer in the state of his **or her** residence may be granted a license to practice funeral directing or embalming in this state on application to the board and on providing the board with such evidence as to his **or her** qualifications as is required by the board. [No license shall be granted to a nonresident applicant except one who resides in a county contiguous and adjacent to the state of Missouri and who is regularly engaged in the practice of funeral directing or embalming, as defined by this chapter, at funeral establishments within this state or in an establishment located in a county contiguous and adjacent to the state of Missouri, unless the law of the state of the

applicant's residence authorizes the granting of licenses to practice funeral directing in such state to persons licensed as funeral directors under the law of the state of Missouri.]

2. Any individual holding a valid, unrevoked and unexpired license as an embalmer or funeral director in another state having requirements substantially similar to those existing in this state [who is or intends to become a resident of this state] may apply for a license to practice in this state by filing with the board a certified statement from the examining board of the state or territory in which the applicant holds his **or her** license showing the grade rating upon which [his] **the** license was granted, together with a recommendation, and the board shall grant the applicant a license upon his **or her** successful completion of an examination over Missouri laws as required in section 333.041 or section 333.042 if the board finds that the applicant's qualifications meet the requirements for funeral directors or embalmers in this state at the time the applicant was originally licensed in the other state.

3. A person holding a valid, unrevoked and unexpired license to practice funeral directing or embalming in another state or territory with requirements less than those of this state may, after five consecutive years of active experience as a licensed funeral director or embalmer in that state, apply for a license to practice in this state after passing a test to prove his **or her** proficiency, including but not limited to a knowledge of the laws and regulations of this state as to funeral directing and embalming.

**333.061. NO FUNERAL ESTABLISHMENT TO BE OPERATED BY UNLICENSED PERSON — LICENSE REQUIREMENTS, APPLICATION PROCEDURE — LICENSE MAY BE SUSPENDED OR REVOKED OR NOT RENEWED. —** 1. No funeral establishment shall be operated in this state unless the owner or operator thereof has a license issued by the board.

2. A license for the operation of a funeral establishment shall be issued by the board, if the board finds:

(1) That the establishment is under the general management and the supervision of a duly licensed funeral director;

(2) That all embalming performed therein is performed by or under the direct supervision of a duly licensed embalmer;

(3) That any place in the funeral establishment where embalming is conducted contains a preparation room with a sanitary floor, walls and ceiling, and adequate sanitary drainage and disposal facilities including running water, and complies with the sanitary standard prescribed by the department of health and senior services for the prevention of the spread of contagious, infectious or communicable diseases;

(4) Each funeral establishment shall have [available in the preparation or embalming room] a register book or log which shall be available at all times [in full view] for the board's inspector and [the name of each body embalmed, place, if other than at the establishment, the date and time that the embalming took place, the name and signature of the embalmer and the embalmer's license number shall be noted in the book] **that shall contain:**

(a) **The name of each body that has been in the establishment;**

(b) **The date the body arrived at the establishment;**

(c) **If applicable, the place of embalming, if known; and**

(d) **If the body was embalmed at the establishment, the date and time that the embalming took place, and the name, signature, and license number of the embalmer; and**

(5) The establishment complies with all applicable state, county or municipal zoning ordinances and regulations.

3. The board shall grant or deny each application for a license pursuant to this section within thirty days after it is filed. The applicant may request in writing up to two thirty-day extensions of the application, provided the request for an extension is received by the board prior to the expiration of the thirty-day application or extension period.

4. Licenses shall be issued pursuant to this section upon application and the payment of a funeral establishment fee and shall be renewed at the end of the licensing period on the establishment's renewal date.

5. The board may refuse to renew or may suspend or revoke any license issued pursuant to this section if it finds, after hearing, that the funeral establishment does not meet any of the requirements set forth in this section as conditions for the issuance of a license, or for the violation by the owner of the funeral establishment of any of the provisions of section 333.121. No new license shall be issued to the owner of a funeral establishment or to any corporation controlled by such owner for three years after the revocation of the license of the owner or of a corporation controlled by the owner. Before any action is taken pursuant to this subsection the procedure for notice and hearing as prescribed by section 333.121 shall be followed.

**333.091. LICENSE TO BE DISPLAYED.** — [Each establishment, funeral director or embalmer receiving a license under this chapter shall have recorded in the office of the local registrar of vital statistics of the registration district in which the licensee practices.] All licenses or registrations, or duplicates thereof, issued pursuant to this chapter shall be displayed at each place of business.

**333.151. BOARD MEMBERS — QUALIFICATIONS — TERMS — VACANCIES.** — 1. The state board of embalmers and funeral directors shall consist of [ten] **six** members, including one voting public member appointed by the governor with the advice and consent of the senate. Each member, other than the public member, appointed shall possess either a license to practice embalming or a license to practice funeral directing in this state or both said licenses and shall have been actively engaged in the practice of embalming or funeral directing for a period of five years next before his or her appointment. Each member shall be a United States citizen, a resident of this state for a period of at least one year, a qualified voter of this state and shall be of good moral character. Not more than [five] **three** members of the board shall be of the same political party. The nonpublic members shall be appointed by the governor, with the advice and consent of the senate[, one from each of the state's congressional districts be of good moral character and submit an audited financial statement of their funeral establishment by an independent auditor for the previous five years. This audited financial statement must include all at-need and preneed business] . **A majority of the members shall constitute a quorum. Members shall be appointed to represent diversity in gender, race, ethnicity, and the various geographic regions of the state.**

2. Each member of the board shall serve for a term of five years. Any vacancy on the board shall be filled by the governor and the person appointed to fill the vacancy shall possess the qualifications required by this chapter and shall serve until the end of the unexpired term of his or her predecessor, if any.

3. The public member shall be at the time of his or her appointment a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

**333.171. BOARD MEETINGS — NOTICE — SEAL.** — The board shall hold at least two regular meetings each year for the purpose of administering examinations at times and places fixed

by the board. Other meetings shall be held at the times fixed by regulations of the board or on the call of the chairman of the board. Notice of the time and place of each regular or special meeting shall be mailed by the executive secretary to each member of the board at least five days before the date of the meeting. [At all meetings of the board three members constitute a quorum.] The board may adopt and use a common seal.

**334.001. OPEN RECORDS SUBJECT TO RELEASE — BOARD DISCLOSURE OF CONFIDENTIAL INFORMATION, WHEN. — 1.** Notwithstanding any other provision of law to the contrary, the following information is an open record and shall be released upon request of any person and may be published on the board's website:

- (1) The name of a licensee or applicant;
- (2) The licensee's business address;
- (3) Registration type;
- (4) Currency of the license, certificate, or registration;
- (5) Professional schools attended;
- (6) Degrees and certifications, including certification by the American Board of Medical Specialties, the American Osteopathic Association, or other certifying agency approved by the board by rule;
- (7) To the extent provided to the board after August 28, 2011, discipline by another state or administrative agency;
- (8) Limitations on practice placed by a court of competent jurisdiction;
- (9) Any final discipline by the board, including the content of the settlement agreement or order issued; and
- (10) Whether a discipline case brought by the board is pending in the administrative hearing commission or any court.

2. All other information pertaining to a licensee or applicant not specifically denominated an open record in subsection 1 of this section is a closed record and confidential.

3. The board shall disclose confidential information without charge or fee upon written request of the licensee or applicant if the information is less than five years old. If the information requested is more than five years old, the board may charge a fee equivalent to the fee specified by regulation.

4. At its discretion, the board may disclose confidential information, without the consent of the licensee or applicant, to a licensee or applicant for a license in order to further a board investigation or to facilitate settlement negotiations with the board, in the course of voluntary exchange of information with another state's licensing authority, pursuant to a court order, or to other administrative or law enforcement agencies acting within the scope of their statutory authority.

5. Information obtained from a federal administrative or law enforcement agency shall be disclosed only after the board has obtained written consent to the disclosure from the federal administrative or law enforcement agency.

6. The board is entitled to the attorney/client privilege and work product privilege to the same extent as any other person.

**334.040. EXAMINATION OF APPLICANTS, HOW CONDUCTED, GRADES REQUIRED, TIME LIMITATIONS, EXTENSIONS. — 1.** Except as provided in section 334.260, all persons desiring to practice as physicians and surgeons in this state shall be examined as to their fitness to engage in such practice by the board. All persons applying for examination shall file a completed application with the board [at least eighty days before the date set for examination upon blanks] **upon forms** furnished by the board.

2. The examination shall be sufficient to test the applicant's fitness to practice as a physician and surgeon. The examination shall be conducted in such a manner as to conceal the identity of the applicant until all examinations have been scored. In all such examinations an average score of not less than seventy-five percent is required to pass; provided, however, that the board may require applicants to take the Federation Licensing Examination, also known as FLEX, or the United States Medical Licensing Examination (USMLE). If the FLEX examination is required, a weighted average score of no less than seventy-five [percent] is required to pass. **Scores from one test administration of the FLEX shall not be combined or averaged with scores from other test administrations to achieve a passing score.** The passing score of the United States Medical Licensing Examination shall be determined by the board through rule and regulation. The board shall not issue a permanent license as a physician and surgeon or allow the Missouri state board examination to be administered to any applicant who has failed to achieve a passing score within three attempts on licensing examinations administered in one or more states or territories of the United States, the District of Columbia or Canada. The steps one, two and three of the United States Medical Licensing Examination shall be taken within a seven-year period with no more than three attempts on any step of the examination; however, the board may grant an extension of the seven-year period if the applicant has obtained a MD/PhD degree in a program accredited by the [liaison committee on medical education] **Liaison Committee on Medical Education (LCME)** and a regional university accrediting body **or a DO/PhD degree accredited by the American Osteopathic Association and a regional university accrediting body.** The board may waive the provisions of this section if the applicant is licensed to practice as a physician and surgeon in another state of the United States, the District of Columbia or Canada and the applicant has achieved a passing score on a licensing examination administered in a state or territory of the United States or the District of Columbia and no license issued to the applicant has been disciplined in any state or territory of the United States or the District of Columbia. Prior to waiving the provisions of this section, the board may require the applicant to achieve a passing score on one of the following:

- (1) The American Specialty Board's certifying examination in the physician's field of specialization;
- (2) Part II of the FLEX; or
- (3) The Federation portion of the State Medical Board's Special Purpose Examination (SPEX) **and the applicant is certified in the applicant's area of specialty by the American Board of Medical Specialties, the American Osteopathic Association, or other certifying agency approved by the board by rule.**

3. If the board waives the provisions of this section, then the license issued to the applicant may be limited or restricted to the applicant's board specialty. [Scores from one test administration shall not be combined or averaged with scores from other test administrations to achieve a passing score.] The board shall not be permitted to favor any particular school or system of healing.

**4. If an applicant has not actively engaged in the practice of clinical medicine or held a teaching or faculty position in a medical or osteopathic school approved by the American Medical Association, the Liaison Committee on Medical Education, or the American Osteopathic Association for any two years in the three year period immediately preceding the filing of his or her application for licensure, the board may require successful completion of another examination, continuing medical education, or further training before issuing a permanent license. The board shall adopt rules to prescribe the form and manner of such reexamination, continuing medical education, and training.**

**334.070. ISSUANCE OF CERTIFICATES OF REGISTRATION TO LICENSEES, CONTENTS — RELOCATION, NOTIFICATION REQUIRED. — 1. Upon due application therefor and upon**



submission by such person of evidence satisfactory to the board that he **or she** is licensed to practice in this state, and upon the payment of fees required to be paid by this chapter, the board shall issue to [him] **such person** a certificate of registration. The certificate of registration shall contain the name of the person to whom it is issued and his **or her** office address [and residence address], the expiration date, and the date and number of the license to practice.

2. [Every person shall, upon receiving such certificate, cause it to be conspicuously displayed at all times in every office maintained by him in the state. If he maintains more than one office in this state, the board shall without additional fee issue to him duplicate certificates of registration for each office so maintained.] If any registrant shall change the location of his **or her** office during the period for which any certificate of registration has been issued, [he] **the registrant** shall, within fifteen days thereafter, notify the board of such change [and it shall issue to him without additional fee a new registration certificate showing the new location].

**334.090. FEES, AMOUNTS, HOW SET.** — 1. Each applicant for registration under this chapter shall accompany the application for registration with a registration fee to be paid to the [director of revenue] **board**. If the application is filed and the fee paid after the registration renewal date, a delinquent fee shall be paid; but whenever in the opinion of the board the applicant's failure to register is caused by extenuating circumstances including illness of the applicant, as defined by rule and regulation, the delinquent fee may be waived by the board. Whenever any new license is granted to any person under the provisions of this chapter, the board shall, upon application therefor, issue to such licensee a certificate of registration covering a period from the date of the issuance of the license to the next renewal date without the payment of any registration fee.

2. The board shall set the amount of the fees which this chapter authorizes and requires by rules and regulations promulgated pursuant to section 536.021. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.

**334.099. CONTESTED HEARING, WHEN, PROCEDURE — REVOCATION OF LICENSE, WHEN — HEARING TO RESUME PRACTICE, WHEN — RULEMAKING AUTHORITY.** — 1. The board may initiate a contested hearing to determine if reasonable cause exists to believe that a licensee or applicant is unable to practice his or her profession with reasonable skill and safety to the public by reason of medical or osteopathic incompetency, mental or physical incapacity, or due to the excessive use or abuse of alcohol or controlled substances:

(1) The board shall serve notice pursuant to section 536.067 of the contested hearing at least fifteen days prior to the hearing. Such notice shall include a statement of the reasons the board believes there is reasonable cause to believe that a licensee or applicant is unable to practice his or her profession with reasonable skill and safety to the public by reason of medical or osteopathic incompetency, mental, or physical incapacity, or due to the excessive use or abuse of alcohol or controlled substances;

(2) For purposes of this section and prior to any contested hearing, the board may, notwithstanding any other law limiting access to medical or other health data, obtain medical data and health records relating to the licensee or applicant without the licensee's or applicant's consent, upon issuance of a subpoena by the board. These data and records shall be admissible without further authentication by either board or licensee at any hearing held pursuant to this section;

(3) After a contested hearing before the board, and upon a showing of reasonable cause to believe that a licensee or applicant is unable to practice his or her profession with reasonable skill and safety to the public by reason of medical or osteopathic incompetency, mental, or physical incapacity, or due to the excessive use or abuse of alcohol or controlled substances the board may require a licensee or applicant to submit to an examination. The

board shall maintain a list of facilities approved to perform such examinations. The licensee or applicant may propose a facility not previously approved to the board and the board may accept such facility as an approved facility for such licensee or applicant by a majority vote;

(4) For purposes of this subsection, every licensee or applicant is deemed to have consented to an examination upon a showing of reasonable cause. The applicant or licensee shall be deemed to have waived all objections to the admissibility of testimony by the provider of the examination and to the admissibility of examination reports on the grounds that the provider of the examination's testimony or the examination is confidential or privileged;

(5) Written notice of the order for an examination shall be sent to the applicant or licensee by registered mail, addressed to the licensee or applicant at the licensee's or applicant's last known address on file with the board, or shall be personally served on the applicant or licensee. The order shall state the cause for the examination, how to obtain information about approved facilities, and a time limit for obtaining the examination. The licensee or applicant shall cause a report of the examination to be sent to the board;

(6) The licensee or applicant shall sign all necessary releases for the board to obtain and use the examination during a hearing and to disclose the recommendations of the examination as part of a disciplinary order;

(7) After receiving the report of the examination ordered in subdivision (3) of this subsection, the board may hold a contested hearing to determine if by clear and convincing evidence the licensee or applicant is unable to practice with reasonable skill or safety to the public by reasons of medical or osteopathic incompetency, reason of mental or physical incapacity, or due to the excessive use or abuse of alcohol or controlled substances. If the board finds that the licensee or applicant is unable to practice with reasonable skill or safety to the public by reasons of medical or osteopathic incompetency, reason of mental or physical incapacity, or excessive use or abuse of controlled substances, the board shall, after a hearing, enter an order imposing one or more of the disciplinary measures set forth in subsection 4 of section 334.100; and

(8) The provisions of chapter 536 for a contested case, except those provisions or amendments which are in conflict with this section, shall apply to and govern the proceedings contained in this subsection and the rights and duties of the parties involved. The person appealing such an action shall be entitled to present evidence under chapter 536 relevant to the allegations.

2. Failure to submit to the examination when directed shall be cause for the revocation of the license of the licensee or denial of the application. No license may be reinstated or application granted until such time as the examination is completed and delivered to the board or the board withdraws its order.

3. Neither the record of proceedings nor the orders entered by the board shall be used against a licensee or applicant in any other proceeding, except for a proceeding in which the board or its members are a party or in a proceeding involving any state or federal agency.

4. A licensee or applicant whose right to practice has been affected under this section shall, at reasonable intervals not to exceed twelve months, be afforded an opportunity to demonstrate that he or she can resume the competent practice of his or her profession or should be granted a license. The board may hear such motion more often upon good cause shown.

5. The board shall promulgate rules and regulations to carry out the provisions of this section.

6. For purposes of this section, "examination" means a skills, multidisciplinary, or substance abuse evaluation.

**334.100. DENIAL, REVOCATION OR SUSPENSION OF LICENSE, ALTERNATIVES, GROUNDS FOR — REINSTATEMENT PROVISIONS.** —

1. The board may refuse to issue or renew any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621. As an alternative to a refusal to issue or renew any certificate, registration or authority, the board may, at its discretion, issue a license which is subject to probation, restriction or limitation to an applicant for licensure for any one or any combination of causes stated in subsection 2 of this section. The board's order of probation, limitation or restriction shall contain a statement of the discipline imposed, the basis therefor, the date such action shall become effective, and a statement that the applicant has thirty days to request in writing a hearing before the administrative hearing commission. If the board issues a probationary, limited or restricted license to an applicant for licensure, either party may file a written petition with the administrative hearing commission within thirty days of the effective date of the probationary, limited or restricted license seeking review of the board's determination. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the board's decision shall be considered as waived.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to this chapter, for any offense [an essential element of which is] **involving** fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

(4) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct or unprofessional conduct in the performance of the functions or duties of any profession licensed or regulated by this chapter, including, but not limited to, the following:

(a) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation; willfully and continually overcharging or overtreating patients; or charging for visits to the physician's office which did not occur unless the services were contracted for in advance, or for services which were not rendered or documented in the patient's records;

(b) Attempting, directly or indirectly, by way of intimidation, coercion or deception, to obtain or retain a patient or discourage the use of a second opinion or consultation;

(c) Willfully and continually performing inappropriate or unnecessary treatment, diagnostic tests or medical or surgical services;

(d) Delegating professional responsibilities to a person who is not qualified by training, skill, competency, age, experience or licensure to perform such responsibilities;

(e) Misrepresenting that any disease, ailment or infirmity can be cured by a method, procedure, treatment, medicine or device;

(f) Performing or prescribing medical services which have been declared by board rule to be of no medical or osteopathic value;

(g) Final disciplinary action by any professional medical or osteopathic association or society or licensed hospital or medical staff of such hospital in this or any other state or territory, whether agreed to voluntarily or not, and including, but not limited to, any removal, suspension, limitation, or restriction of the person's license or staff or hospital privileges, failure to renew such privileges or license for cause, or other final disciplinary action, if the action was in any way related to unprofessional conduct, professional incompetence, malpractice or any other violation of any provision of this chapter;

(h) Signing a blank prescription form; or dispensing, prescribing, administering or otherwise distributing any drug, controlled substance or other treatment without sufficient examination **including failing to establish a valid physician-patient relationship pursuant to section 334.108**, or for other than medically accepted therapeutic or experimental or investigative purposes duly authorized by a state or federal agency, or not in the course of professional practice, or not in good faith to relieve pain and suffering, or not to cure an ailment, physical infirmity or disease, except as authorized in section 334.104;

(i) Exercising influence within a physician-patient relationship for purposes of engaging a patient in sexual activity;

(j) **Being listed on any state or federal sexual offender registry;**

(k) Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient;

[(k)] **(l)** Failing to furnish details of a patient's medical records to other treating physicians or hospitals upon proper request; or failing to comply with any other law relating to medical records;

[(l)] **(m)** Failure of any applicant or licensee[, other than the licensee subject to the investigation,] to cooperate with the board during any investigation;

[(m)] **(n)** Failure to comply with any subpoena or subpoena duces tecum from the board or an order of the board;

[(n)] **(o)** Failure to timely pay license renewal fees specified in this chapter;

[(o)] **(p)** Violating a probation agreement, **order, or other settlement agreement** with this board or any other licensing agency;

[(p)] **(q)** Failing to inform the board of the physician's current residence and business address;

[(q)] **(r)** Advertising by an applicant or licensee which is false or misleading, or which violates any rule of the board, or which claims without substantiation the positive cure of any disease, or professional superiority to or greater skill than that possessed by any other physician. An applicant or licensee shall also be in violation of this provision if the applicant or licensee has a financial interest in any organization, corporation or association which issues or conducts such advertising;

**(s) Any other conduct that is unethical or unprofessional involving a minor;**

(5) Any conduct or practice which is or might be harmful or dangerous to the mental or physical health of a patient or the public; or incompetency, gross negligence or repeated negligence in the performance of the functions or duties of any profession licensed or regulated by this chapter. For the purposes of this subdivision, "repeated negligence" means the failure, on more than one occasion, to use that degree of skill and learning ordinarily used under the same or similar circumstances by the member of the applicant's or licensee's profession;

(6) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of this chapter **or chapter 324**, or of any lawful rule or regulation adopted pursuant to this chapter **or chapter 324**;

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(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;

(8) Revocation, suspension, restriction, modification, limitation, reprimand, warning, censure, probation or other final disciplinary action against the holder of or applicant for a license or other right to practice any profession regulated by this chapter by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee or applicant, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or limiting the practice of medicine while subject to an investigation or while actually under investigation by any licensing authority, medical facility, branch of the armed forces of the United States of America, insurance company, court, agency of the state or federal government, or employer;

(9) A person is finally adjudged incapacitated or disabled by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not registered and currently eligible to practice pursuant to this chapter; or knowingly performing any act which in any way aids, assists, procures, advises, or encourages any person to practice medicine who is not registered and currently eligible to practice pursuant to this chapter. A physician who works in accordance with standing orders or protocols or in accordance with the provisions of section 334.104 shall not be in violation of this subdivision;

(11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;

(12) Failure to display a valid certificate or license if so required by this chapter or any rule promulgated pursuant to this chapter;

(13) Violation of the drug laws or rules and regulations of this state, **including but not limited to any provision of chapter 195**, any other state, or the federal government;

(14) Knowingly making, or causing to be made, or aiding, or abetting in the making of, a false statement in any birth, death or other certificate or document executed in connection with the practice of the person's profession;

(15) **Knowingly making a false statement, orally or in writing to the board;**

(16) Soliciting patronage in person or by agents or representatives, or by any other means or manner, under the person's own name or under the name of another person or concern, actual or pretended, in such a manner as to confuse, deceive, or mislead the public as to the need or necessity for or appropriateness of health care services for all patients, or the qualifications of an individual person or persons to diagnose, render, or perform health care services;

[(16)] (17) Using, or permitting the use of, the person's name under the designation of "Doctor", "Dr.", "M.D.", or "D.O.", or any similar designation with reference to the commercial exploitation of any goods, wares or merchandise;

[(17)] (18) Knowingly making or causing to be made a false statement or misrepresentation of a material fact, with intent to defraud, for payment pursuant to the provisions of chapter 208 or chapter 630 or for payment from Title XVIII or Title XIX of the federal Medicare program;

[(18)] (19) Failure or refusal to properly guard against contagious, infectious or communicable diseases or the spread thereof; maintaining an unsanitary office or performing professional services under unsanitary conditions; or failure to report the existence of an unsanitary condition in the office of a physician or in any health care facility to the board, in writing, within thirty days after the discovery thereof;

[(19)] (20) Any candidate for licensure or person licensed to practice as a physical therapist, paying or offering to pay a referral fee or, notwithstanding section 334.010 to the contrary, practicing or offering to practice professional physical therapy independent of the prescription and

direction of a person licensed and registered as a physician and surgeon pursuant to this chapter, as a dentist pursuant to chapter 332, as a podiatrist pursuant to chapter 330, as an advanced practice registered nurse under chapter 335, or any licensed and registered physician, dentist, podiatrist, or advanced practice registered nurse practicing in another jurisdiction, whose license is in good standing;

[(20)] (21) Any candidate for licensure or person licensed to practice as a physical therapist, treating or attempting to treat ailments or other health conditions of human beings other than by professional physical therapy and as authorized by sections 334.500 to 334.620;

[(21)] (22) Any person licensed to practice as a physician or surgeon, requiring, as a condition of the physician-patient relationship, that the patient receive prescribed drugs, devices or other professional services directly from facilities of that physician's office or other entities under that physician's ownership or control. A physician shall provide the patient with a prescription which may be taken to the facility selected by the patient and a physician knowingly failing to disclose to a patient on a form approved by the advisory commission for professional physical therapists as established by section 334.625 which is dated and signed by a patient or guardian acknowledging that the patient or guardian has read and understands that the physician has a pecuniary interest in a physical therapy or rehabilitation service providing prescribed treatment and that the prescribed treatment is available on a competitive basis. This subdivision shall not apply to a referral by one physician to another physician within a group of physicians practicing together;

[(22)] (23) A pattern of personal use or consumption of any controlled substance unless it is prescribed, dispensed or administered by another physician who is authorized by law to do so;

[(23)] (24) **Habitual intoxication or dependence on alcohol, evidence of which may include more than one alcohol-related enforcement contact as defined by section 302.525;**

(25) **Failure to comply with a treatment program or an aftercare program entered into as part of a board order, settlement agreement or licensee's professional health program;**

(26) **Revocation, suspension, limitation, probation, or restriction of any kind whatsoever of any controlled substance authority, whether agreed to voluntarily or not, or voluntary termination of a controlled substance authority while under investigation;**

[(24)] (27) For a physician to operate, conduct, manage, or establish an abortion facility, or for a physician to perform an abortion in an abortion facility, if such facility comes under the definition of an ambulatory surgical center pursuant to sections 197.200 to 197.240, and such facility has failed to obtain or renew a license as an ambulatory surgical center[;]

(25) Being unable to practice as a physician and surgeon or with a specialty with reasonable skill and safety to patients by reasons of medical or osteopathic incompetency, or because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or as a result of any mental or physical condition. The following shall apply to this subdivision:

(a) In enforcing this subdivision the board shall, after a hearing by the board, upon a finding of probable cause, require a physician to submit to a reexamination for the purpose of establishing his or her competency to practice as a physician or surgeon or with a specialty conducted in accordance with rules adopted for this purpose by the board, including rules to allow the examination of the pattern and practice of such physician's or surgeon's professional conduct, or to submit to a mental or physical examination or combination thereof by at least three physicians, one selected by the physician compelled to take the examination, one selected by the board, and one selected by the two physicians so selected who are graduates of a professional school approved and accredited as reputable by the association which has approved and accredited as reputable the professional school from which the licensee graduated. However, if the physician is a graduate of a medical school not accredited by the American Medical Association or American Osteopathic Association, then each party shall choose any physician who is a graduate of a medical school accredited by the American Medical Association or the American Osteopathic Association;

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(b) For the purpose of this subdivision, every physician licensed pursuant to this chapter is deemed to have consented to submit to a mental or physical examination when directed in writing by the board and further to have waived all objections to the admissibility of the examining physician's testimony or examination reports on the ground that the examining physician's testimony or examination is privileged;

(c) In addition to ordering a physical or mental examination to determine competency, the board may, notwithstanding any other law limiting access to medical or other health data, obtain medical data and health records relating to a physician or applicant without the physician's or applicant's consent;

(d) Written notice of the reexamination or the physical or mental examination shall be sent to the physician, by registered mail, addressed to the physician at the physician's last known address. Failure of a physician to designate an examining physician to the board or failure to submit to the examination when directed shall constitute an admission of the allegations against the physician, in which case the board may enter a final order without the presentation of evidence, unless the failure was due to circumstances beyond the physician's control. A physician whose right to practice has been affected under this subdivision shall, at reasonable intervals, be afforded an opportunity to demonstrate that the physician can resume the competent practice as a physician and surgeon with reasonable skill and safety to patients;

(e) In any proceeding pursuant to this subdivision neither the record of proceedings nor the orders entered by the board shall be used against a physician in any other proceeding. Proceedings under this subdivision shall be conducted by the board without the filing of a complaint with the administrative hearing commission;

(f) When the board finds any person unqualified because of any of the grounds set forth in this subdivision, it may enter an order imposing one or more of the disciplinary measures set forth in subsection 4 of this section].

3. Collaborative practice arrangements, protocols and standing orders shall be in writing and signed and dated by a physician prior to their implementation.

4. After the filing of such complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the board may, singly or in combination, warn, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed ten years, or may suspend the person's license, certificate or permit for a period not to exceed three years, or restrict or limit the person's license, certificate or permit for an indefinite period of time, or revoke the person's license, certificate, or permit, or administer a public or private reprimand, or deny the person's application for a license, or permanently withhold issuance of a license or require the person to submit to the care, counseling or treatment of physicians designated by the board at the expense of the individual to be examined, or require the person to attend such continuing educational courses and pass such examinations as the board may direct.

5. In any order of revocation, the board may provide that the person may not apply for reinstatement of the person's license for a period of time ranging from two to seven years following the date of the order of revocation. All stay orders shall toll this time period.

6. Before restoring to good standing a license, certificate or permit issued pursuant to this chapter which has been in a revoked, suspended or inactive state for any cause for more than two years, the board may require the applicant to attend such continuing medical education courses and pass such examinations as the board may direct.

7. In any investigation, hearing or other proceeding to determine a licensee's or applicant's fitness to practice, any record relating to any patient of the licensee or applicant shall be discoverable by the board and admissible into evidence, regardless of any statutory or common law privilege which such licensee, applicant, record custodian or patient might otherwise invoke. In

addition, no such licensee, applicant, or record custodian may withhold records or testimony bearing upon a licensee's or applicant's fitness to practice on the ground of privilege between such licensee, applicant or record custodian and a patient.

**334.102. EMERGENCY SUSPENSION OR RESTRICTION, WHEN, PROCEDURE — REMOVAL FROM RECORD, WHEN — DISCIPLINARY PROCEEDINGS PERMITTED, WHEN — JUDICIAL REVIEW, WHEN. —** 1. [Upon receipt of information that the holder of any certificate of registration or authority, permit or license issued pursuant to this chapter may present a clear and present danger to the public health and safety, the executive secretary or director shall direct that the information be brought to the board in the form of sworn testimony or affidavits during a meeting of the board.

2. The board may issue an order suspending and/or restricting the holder of a certificate of registration or authority, permit or license if it believes:

(1) The licensee's acts, conduct or condition may have violated subsection 2 of section 334.100; and

(2) A licensee is practicing, attempting or intending to practice in Missouri; and

(3) Either a licensee is unable by reason of any physical or mental condition to receive and evaluate information or to communicate decisions to the extent that the licensee's condition or actions significantly affect the licensee's ability to practice, or another state, territory, federal agency or country has issued an order suspending or restricting the holder of a license or other right to practice a profession regulated by this chapter, or the licensee has engaged in repeated acts of life-threatening negligence as defined in subsection 2 of section 334.100; and

(4) The acts, conduct or condition of the licensee constitute a clear and present danger to the public health and safety.

3. (1) The order of suspension or restriction:

(a) Shall be based on the sworn testimony or affidavits presented to the board;

(b) May be issued without notice and hearing to the licensee;

(c) Shall include the facts which lead the board to conclude that the acts, conduct or condition of the licensee constitute a clear and present danger to the public health and safety; and

(2) The board or the administrative hearing commission shall serve the licensee, in person or by certified mail, with a copy of the order of suspension or restriction and all sworn testimony or affidavits presented to the board, a copy of the complaint and the request for expedited hearing, and a notice of the place of and the date upon which the preliminary hearing will be held.

(3) The order of restriction shall be effective upon service of the documents required in subdivision (2) of this subsection.

(4) The order of suspension shall become effective upon the entry of the preliminary order of the administrative hearing commission.

(5) The licensee may seek a stay order from the circuit court of Cole County from the preliminary order of suspension, pending the issuance of a final order by the administrative hearing commission.

4. The board shall file a complaint in the administrative hearing commission with a request for expedited preliminary hearing and shall certify the order of suspension or restriction and all sworn testimony or affidavits presented to the board. Immediately upon receipt of a complaint filed pursuant to this section, the administrative hearing commission shall set the place and date of the expedited preliminary hearing which shall be conducted as soon as possible, but not later than five days after the date of service upon the licensee. The administrative hearing commission shall grant a licensee's request for a continuance of the preliminary hearing; however, the board's order shall remain in full force and effect until the preliminary hearing, which shall be held not later than forty-five days after service of the documents required in subdivision (2) of subsection 3.

5. At the preliminary hearing, the administrative hearing commission shall receive into evidence all information certified by the board and shall only hear evidence on the issue of



whether the board's order of suspension or restriction should be terminated or modified. Within one hour after the preliminary hearing, the administrative hearing commission shall issue its oral or written preliminary order, with or without findings of fact and conclusions of law, that either adopts, terminates or modifies the board's order. The administrative hearing commission shall reduce to writing any oral preliminary order within five business days, but the effective date of the order shall be the date orally issued.

6. The preliminary order of the administrative hearing commission shall become a final order and shall remain in effect for three years unless either party files a request for a full hearing on the merits of the complaint filed by the board within thirty days from the date of the issuance of the preliminary order of the administrative hearing commission.

7. Upon receipt of a request for full hearing, the administrative hearing commission shall set a date for hearing and notify the parties in writing of the time and place of the hearing. If a request for full hearing is timely filed, the preliminary order of the administrative hearing commission shall remain in effect until the administrative hearing commission enters an order terminating, modifying, or dismissing its preliminary order or until the board issues an order of discipline following its consideration of the decision of the administrative hearing commission pursuant to section 621.110 and subsection 3 of section 334.100.

8. In cases where the board initiates summary suspension or restriction proceedings against a physician licensed pursuant to this chapter, and said petition is subsequently denied by the administrative hearing commission, in addition to any award made pursuant to sections 536.085 and 536.087, the board, but not individual members of the board, shall pay actual damages incurred during any period of suspension or restriction.

9. Notwithstanding the provisions of this chapter or chapter 610 or chapter 621 to the contrary, the proceedings under this section shall be closed and no order shall be made public until it is final, for purposes of appeal.

10. The burden of proving the elements listed in subsection 2 of this section shall be upon the state board of registration for the healing arts.] **The board may apply to the administrative hearing commission for an emergency suspension or restriction of a licensee for the following causes:**

(1) **Engaging in sexual conduct, as defined in section 566.010, with a patient who is not the licensee's spouse, regardless of whether the patient consented;**

(2) **Engaging in sexual misconduct with a minor or person the licensee believes to be a minor. "Sexual misconduct" means any conduct of a sexual nature which would be illegal under state or federal law;**

(3) **Possession of a controlled substance in violation of chapter 195 or any state or federal law, rule, or regulation, excluding record keeping violations;**

(4) **Use of a controlled substance without a valid prescription;**

(5) **The licensee is adjudicated incapacitated or disabled by a court of competent jurisdiction;**

(6) **Habitual intoxication or dependence upon alcohol or controlled substances or failure to comply with a treatment or aftercare program entered into pursuant to a board order, settlement agreement, or as part of the licensee's professional health program;**

(7) **A report from a board approved facility or a professional health program stating the licensee is not fit to practice. For purposes of this section, a licensee is deemed to have waived all objections to the admissibility of testimony from the provider of the examination and admissibility of the examination reports. The licensee shall sign all necessary releases for the board to obtain and use the examination during a hearing; or**

(8) **Any conduct for which the board may discipline that constitutes a serious danger to the health, safety, or welfare of a patient or the public.**

2. The board shall submit existing affidavits and existing certified court records together with a complaint alleging the facts in support of the board's request for an

emergency suspension or restriction to the administrative hearing commission and shall supply the administrative hearing commission with the last home or business addresses on file with the board for the licensee. Within one business day of the filing of the complaint, the administrative hearing commission shall return a service packet to the board. The service packet shall include the board's complaint and any affidavits or records the board intends to rely on that have been filed with the administrative hearing commission. The service packet may contain other information in the discretion of the administrative hearing commission. Within twenty-four hours of receiving the packet, the board shall either personally serve the licensee or leave a copy of the service packet at all of the licensee's current addresses on file with the board. Prior to the hearing, the licensee may file affidavits and certified court records for consideration by the administrative hearing commission.

3. Within five days of the board's filing of the complaint, the administrative hearing commission shall review the information submitted by the board and the licensee and shall determine based on that information if probable cause exists pursuant to subsection 1 of this section and shall issue its findings of fact and conclusions of law. If the administrative hearing commission finds that there is probable cause, the administrative hearing commission shall enter the order requested by the board. The order shall be effective upon personal service or by leaving a copy at all of the licensee's current addresses on file with the board.

4. The administrative hearing commission shall hold a hearing within forty-five days of the board's filing of the complaint to determine if cause for discipline exists. The administrative hearing commission may grant a request for a continuance, but shall in any event, hold the hearing within one hundred twenty days of the board's initial filing. The board shall be granted leave to amend its complaint if it is more than thirty days prior to the hearing. If less than thirty days, the board may be granted leave to amend if public safety requires.

(1) If no cause for discipline exists, the administrative hearing commission shall issue findings of fact, conclusions of law, and an order terminating the emergency suspension or restriction.

(2) If cause for discipline exists, the administrative hearing commission shall issue findings of fact and conclusions of law and order the emergency suspension or restriction to remain in full force and effect pending a disciplinary hearing before the board. The board shall hold a hearing following the certification of the record by the administrative hearing commission and may impose any discipline otherwise authorized by state law.

6. Any action under this section shall be in addition to and not in lieu of any discipline otherwise in the board's power to impose and may be brought concurrently with other actions.

7. If the administrative hearing commission does not find probable cause and does not grant the emergency suspension or restriction, the board shall remove all reference to such emergency suspension or restriction from its public records. Records relating to the suspension or restriction shall be maintained in the board's files. The board or licensee may use such records in the course of any litigation to which they are both parties. Additionally, such records may be released upon a specific, written request of the licensee.

8. (1) The board may initiate a hearing before the board, for discipline of any licensee's license or certificate upon receipt of one of the following:

(a) Certified court records of a finding of guilt or plea of guilty or nolo contendere in a criminal prosecution under the laws of any state or of the United States for any offense involving the qualifications, functions, or duties of any profession licensed or regulated under this chapter, for any offense involving fraud, dishonesty, or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(b) Evidence of final disciplinary action against the licensee's license, certification or registration issued by any other state, by any other agency or entity of this state or any other state or the United States or its territories, or any other country;

(c) Evidence of certified court records finding the licensee has been judged incapacitated or disabled under Missouri law or under the laws of any other state or of the United States or its territories.

(2) The board shall provide the licensee not less than ten days notice of any hearing held pursuant to chapter 536.

(3) Upon a finding that cause exists to discipline a licensee's license the board may impose any discipline otherwise available when disciplining licensees of that same profession.

9. A final decision of the administrative hearing commission or the board shall be subject to judicial review pursuant to chapter 536.

**334.103. AUTOMATIC REVOCATION OR REINSTATEMENT OF LICENSE, GROUNDS.** — 1. A license issued under this chapter by the Missouri State Board of Registration for the Healing Arts shall be automatically revoked at such time as the final trial proceedings are concluded whereby a licensee has been adjudicated and found guilty, or has entered a plea of guilty or nolo contendere, in a felony criminal prosecution under the laws of the state of Missouri, the laws of any other state, or the laws of the United States of America for any offense reasonably related to the qualifications, functions or duties of their profession, or for any felony offense[, an essential element of which is] **involving** fraud, dishonesty or an act of violence, or for any felony offense involving moral turpitude, whether or not sentence is imposed, or, upon the final and unconditional revocation of the license to practice their profession in another state or territory upon grounds for which revocation is authorized in this state following a review of the record of the proceedings and upon a formal motion of the state board of registration for the healing arts. The license of any such licensee shall be automatically reinstated if the conviction or the revocation is ultimately set aside upon final appeal in any court of competent jurisdiction.

2. Anyone who has been denied a license, permit or certificate to practice in another state shall automatically be denied a license to practice in this state. However, the board of healing arts may set up other qualifications by which such person may ultimately be qualified and licensed to practice in Missouri.

**334.108. INTERNET PRESCRIPTIONS AND TREATMENT, ESTABLISHMENT OF PHYSICIAN-PATIENT RELATIONSHIP REQUIRED.** — 1. **Prior to prescribing any drug, controlled substance, or other treatment through the internet, a physician shall establish a valid physician-patient relationship. This relationship shall include:**

(1) **Obtaining a reliable medical history and performing a physical examination of the patient, adequate to establish the diagnosis for which the drug is being prescribed and to identify underlying conditions or contraindications to the treatment recommended or provided;**

(2) **Having sufficient dialogue with the patient regarding treatment options and the risks and benefits of treatment or treatments;**

(3) **If appropriate, following up with the patient to assess the therapeutic outcome;**

(4) **Maintaining a contemporaneous medical record that is readily available to the patient and, subject to the patient's consent, to the patient's other health care professionals; and**

(5) **Including the electronic prescription information as part of the patient's medical record.**

2. The requirements of subsection 1 of this section may be satisfied by the prescribing physician's designee when treatment is provided in:

- (1) A hospital as defined in section 197.020;
- (2) A hospice program as defined in section 197.250;
- (3) Home health services provided by a home health agency as defined in section 197.400;
- (4) Accordance with a collaborative practice agreement as defined in section 334.104;
- (5) Conjunction with a physician assistant licensed pursuant to section 334.738;
- (6) Consultation with another physician who has an ongoing physician-patient relationship with the patient, and who has agreed to supervise the patient's treatment, including use of any prescribed medications; or
- (7) On-call or cross-coverage situations.

**334.715. REFUSAL TO ISSUE OR RENEW LICENSE, GROUNDS, ALTERNATIVES — COMPLAINT PROCEDURE — REINSTATEMENT, PROCEDURE.** — 1. The board may refuse to **issue or renew any** license [any applicant or may suspend, revoke, or refuse to renew the license of any licensee for any one or any combination of the causes provided in section 334.100, or if the applicant or licensee] **required under sections 334.700 to 334.725 for one or any combination of causes listed in subsection 2 of this section or any cause listed in section 334.100.** The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided in chapter 621. As an alternative to a refusal to issue or renew any certificate, registration, or authority, the board may, in its discretion, issue a license which is subject to reprimand, probation, restriction, or limitation to an applicant for licensure for any one or any combination of causes listed in subsection 2 of this section or section 334.100. The board's order of reprimand, probation, limitation, or restriction shall contain a statement of the discipline imposed, the basis therefor, the date such action shall become effective, and a statement that the applicant has thirty days to request in writing a hearing before the administrative hearing commission. If the board issues a probationary, limited, or restricted license to an applicant for licensure, either party may file a written petition with the administrative hearing commission within thirty days of the effective date of the probationary, limited, or restricted license seeking review of the board's determination. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the board's decision shall be considered waived.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided in chapter 621 against any holder of a certificate of registration or authority, permit, or license required by sections 334.700 to 334.725 or any person who has failed to renew or has surrendered the person's certification of registration or license for any one or any combination of the following causes:

- (1) Violated or conspired to violate any provision of sections 334.700 to 334.725 or any provision of any rule promulgated pursuant to sections 334.700 to 334.725; or
- (2) Has been found guilty of unethical conduct as defined in the ethical standards of the National Athletic Trainers Association or the National Athletic Trainers Association Board of Certification, or its successor agency, as adopted and published by the committee and the board and filed with the secretary of state; or
- (3) **Any cause listed in section 334.100.**

[2. Upon receipt of a written application made in the form and manner prescribed by the board, the board may reinstate any license which has expired, been suspended or been revoked or may issue any license which has been denied; provided, that no application for reinstatement or issuance of license or licensure shall be considered until at least six months have elapsed from the date of denial, expiration, suspension, or revocation when the license to be reinstated or issued was

denied issuance or renewal or was suspended or revoked for one of the causes listed in subsection 1 of this section.]

**3. After the filing of such complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a finding by the administrative hearing commission that the grounds provided in subsection 2 of this section for disciplinary action are met, the board may, singly or in combination:**

**(1) Warn, censure, or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed ten years; or**

**(2) Suspend the person's license, certificate, or permit for a period not to exceed three years; or**

**(3) Administer a public or private reprimand; or**

**(4) Deny the person's application for a license; or**

**(5) Permanently withhold issuance of a license or require the person to submit to the care, counseling, or treatment of physicians designated by the board at the expense of the individual to be examined; or**

**(6) Require the person to attend such continuing education courses and pass such examinations as the board may direct.**

**4. In any order of revocation, the board may provide that the person shall not apply for reinstatement of the person's license for a period of time ranging from two to seven years following the date of the order of revocation. All stay orders shall toll such time period.**

**5. Before restoring to good standing a license, certificate, or permit issued under this chapter which has been in a revoked, suspended, or inactive state for any cause for more than two years, the board may require the applicant to attend such continuing education courses and pass such examinations as the board may direct.**

**436.405. DEFINITIONS.** — 1. As used in sections 436.400 to 436.520, unless the context otherwise requires, the following terms shall mean:

**(1) "Beneficiary",** the individual who is to be the subject of the disposition or who will receive funeral services, facilities, or merchandise described in a preneed contract;

**(2) "Board", the board of embalmers and funeral directors;**

**(3) "Guaranteed contract",** a preneed contract in which the seller promises, assures, or guarantees to the purchaser that all or any portion of the costs for the disposition, services, facilities, or merchandise identified in a preneed contract will be no greater than the amount designated in the contract upon the preneed beneficiary's death or that such costs will be otherwise limited or restricted;

**[(3)] (4) "Insurance-funded preneed contract",** a preneed contract which is designated to be funded by payments or proceeds from an insurance policy or [single premium] **a deferred annuity contract that is not classified as a variable annuity and has death benefit proceeds that are never less than the sum of premiums paid;**

**[(4)] (5) "Joint account-funded preneed contract",** a preneed contract which designates that payments for the preneed contract made by or on behalf of the purchaser will be deposited and maintained in a joint account in the names of the purchaser and seller, as provided in this chapter;

**[(5)] (6) "Market value",** a fair market value:

**(a)** As to cash, the amount thereof;

**(b)** As to a security as of any date, the price for the security as of that date obtained from a generally recognized source, or to the extent no generally recognized source exists, the price to sell the security in an orderly transaction between unrelated market participants at the measurement date; and

(c) As to any other asset, the price to sell the asset in an orderly transaction between unrelated market participants at the measurement date consistent with statements of financial accounting standards;

[(6)] (7) "Nonguaranteed contract", a preneed contract in which the seller does not promise, assure, or guarantee that all or any portion of the costs for the disposition, facilities, service, or merchandise identified in a preneed contract will be limited to the amount designated in the contract upon the preneed beneficiary's death or that such costs will be otherwise limited or restricted;

[(7)] (8) "Preneed contract", any contract or other arrangement which provides for the final disposition in Missouri of a dead human body, funeral or burial services or facilities, or funeral merchandise, where such disposition, services, facilities, or merchandise are not immediately required. Such contracts include, but are not limited to, agreements providing for a membership fee or any other fee for the purpose of furnishing final disposition, funeral or burial services or facilities, or funeral merchandise at a discount or at a future date;

[(8)] (9) "Preneed trust", a trust to receive deposits of, administer, and disburse payments received under preneed contracts, together with income thereon;

[(9)] (10) "Purchaser", the person who is obligated to pay under a preneed contract;

[(10)] (11) "Trustee", the trustee of a preneed trust, including successor trustees;

[(11)] (12) "Trust-funded preneed contract", a preneed contract which provides that payments for the preneed contract shall be deposited and maintained in trust.

2. All terms defined in chapter 333 shall be deemed to have the same meaning when used in sections 436.400 to 436.520.

**436.412. VIOLATIONS, DISCIPLINARY ACTIONS AUTHORIZED — GOVERNING LAW FOR CONTRACTS.** — Each preneed contract made before August 28, 2009, and all payments and disbursements under such contract shall continue to be governed by this chapter as the chapter existed at the time the contract was made. Any licensee or registrant of the board may be disciplined for violation of any provision of sections 436.005 to 436.071 within the applicable statute of limitations. [In addition, the provisions of section 436.031, as it existed on August 27, 2009, shall continue to govern disbursements to the seller from the trust and payment of trust expenses.] Joint accounts in existence as of August 27, 2009, shall continue to be governed by the provisions of section 436.053, as that section existed on August 27, 2009.

**436.445. TRUSTEE NOT TO MAKE DECISIONS, WHEN.** — A trustee of any preneed trust, including trusts established before August 28, 2009, shall not after August 28, 2009, make any decisions to invest any trust fund with:

- (1) The spouse of the trustee;
- (2) The descendants, siblings, parents, or spouses of a seller or an officer, manager, director or employee of a seller, provider, or preneed agent;
- (3) Agents, **other than authorized external investment advisors as authorized by section 436.440**, or attorneys of a trustee, seller, or provider; or
- (4) A corporation or other person or enterprise in which the trustee, seller, or provider owns a controlling interest or has an interest that might affect the trustee's judgment.

**436.450. INSURANCE-FUNDED PRENEED CONTRACT REQUIREMENTS.** — 1. An insurance-funded preneed contract shall comply with sections 436.400 to 436.520 and the specific requirements of this section.

2. A seller, provider, or any preneed agent shall not receive or collect from the purchaser of an insurance-funded preneed contract any amount in excess of what is required to pay the premiums on the insurance policy as assessed or required by the insurer as premium payments for

the insurance policy except for any amount required or authorized by this chapter or by rule. A seller shall not receive or collect any administrative or other fee from the purchaser for or in connection with an insurance-funded preneed contract, other than those fees or amounts assessed by the insurer. As of August 29, 2009, no preneed seller, provider, or agent shall use any existing preneed contract as collateral or security pledged for a loan or take preneed funds of any existing preneed contract as a loan for any purpose other than as authorized by this chapter.

3. Payments collected by or on behalf of a seller for an insurance-funded preneed contract shall be promptly remitted to the insurer or the insurer's designee as required by the insurer; provided that payments shall not be retained or held by the seller or preneed agent for more than thirty days from the date of receipt.

4. It is unlawful for a seller, provider, or preneed agent to procure or accept a loan against any insurance contract used to fund a preneed contract.

5. Laws regulating insurance shall not apply to preneed contracts, but shall apply to any insurance or [single premium] annuity sold with a preneed contract; provided, however, the provisions of [this act] **sections 436.400 to 436.520** shall not apply to [single premium] annuities or insurance policies regulated by chapters 374, 375, and 376 used to fund preneed funeral agreements, contracts, or programs.

6. This section shall apply to all preneed contracts including those entered into before August 28, 2009.

7. For any insurance-funded preneed contract sold after August 28, 2009, the following shall apply:

(1) The purchaser or beneficiary shall be the owner of the insurance policy purchased to fund a preneed contract; and

(2) An insurance-funded preneed contract shall be valid and enforceable only if the seller or provider is named as the beneficiary or assignee of the life insurance policy funding the contract.

8. If the proceeds of the life insurance policy exceed the actual cost of the goods and services provided pursuant to the nonguaranteed preneed contract, any overage shall be paid to the estate of the beneficiary, or, if the beneficiary received public assistance, to the state of Missouri.

**436.455. JOINT ACCOUNT-FUNDED PRENEED CONTRACT REQUIREMENTS.** — 1. A joint account-funded preneed contract shall comply with sections 436.400 to 436.520 and the specific requirements of this section.

2. In lieu of a trust-funded or insurance-funded preneed contract, the seller and the purchaser may agree in writing that all funds paid by the purchaser or beneficiary for the preneed contract shall be deposited with a financial institution chartered and regulated by the federal or state government authorized to do business in Missouri in an account in the joint names and under the joint control of the seller and purchaser, beneficiary or party holding power of attorney over the beneficiary's estate, **or in an account titled in the beneficiary's name and payable on the beneficiary's death to the seller.** There shall be a separate joint account established for each preneed contract sold or arranged under this section. Funds shall only be withdrawn or paid from the account upon the signatures of both the seller and the purchaser or under a pay-on-death designation or as required to pay reasonable expenses of administering the account.

3. All consideration paid by the purchaser under a joint account-funded contract shall be deposited into a joint account as authorized by this section within ten days of receipt of payment by the seller.

4. The financial institution shall hold, invest, and reinvest funds deposited under this section in other accounts offered to depositors by the financial institutions as provided in the written agreement of the purchaser and the seller, provided the financial institution shall not invest or reinvest any funds deposited under this section in term life insurance or any investment that does not reasonably have the potential to gain income or increase in value.

5. Income generated by preneed funds deposited under this section shall be used to pay the reasonable expenses of administering the account as charged by the financial institution and the balance of the income shall be distributed or reinvested upon fulfillment of the contract, cancellation or transfer pursuant to the provisions of this chapter.

6. Within fifteen days after a provider [and a witness certify to the financial institution in writing] **delivers a copy of a certificate of performance to the seller, signed by the provider and the person authorized to make arrangements on behalf of the beneficiary, certifying** that the provider has furnished the final disposition, funeral, and burial services and facilities, and merchandise as required by the preneed contract, or has provided alternative funeral benefits for the beneficiary under special arrangements made with the purchaser, the [financial institution shall distribute the deposited funds to the seller if the certification has been approved by the purchaser] **seller shall take whatever steps are required by the financial institution to secure payment of the funds from the financial institution.** The seller shall pay the provider within ten days of receipt of funds.

7. Any seller, provider, or preneed agent shall not procure or accept a loan against any investment, or asset of, or belonging to a joint account. As of August 28, 2009, it shall be prohibited to use any existing preneed contract as collateral or security pledged for a loan, or take preneed funds of any existing preneed contract as a loan or for any purpose other than as authorized by this chapter.

**436.456. CANCELLATION OF CONTRACT, WHEN, PROCEDURE.** — At any time before final disposition, or before the funeral or burial services, facilities, or merchandise described in a preneed contract are furnished, the purchaser may cancel the contract, if designated as revocable, without cause. In order to cancel the contract the purchaser shall:

(1) In the case of a joint account-funded preneed contract, deliver written notice of the cancellation to the seller [and the financial institution]. Within fifteen days of receipt of notice of the cancellation, the [financial institution shall distribute all deposited funds to the purchaser] **seller shall take whatever steps may be required by the financial institution to obtain the funds from the financial institution. Upon receipt of the funds from the financial institution, the seller shall distribute the principal to the purchaser.** Interest shall be distributed as provided in the agreement with the seller and purchaser;

(2) In the case of an insurance-funded preneed contract, deliver written notice of the cancellation to the seller. Within fifteen days of receipt of notice of the cancellation, the seller shall notify the purchaser that the cancellation of the contract shall not cancel any life insurance funding the contract and that insurance cancellation is required to be made in writing to the insurer;

(3) In the case of a trust-funded preneed contract, deliver written notice of the cancellation to the seller and trustee. Within fifteen days of receipt of notice of the cancellation, the trustee shall distribute one hundred percent of the trust property including any percentage of the total payments received on the trust-funded contract that have been withdrawn from the account under subsection 4 of section 436.430 but excluding the income, to the purchaser of the contract;

(4) In the case of a guaranteed installment payment contract where the beneficiary dies before all installments have been paid, the purchaser shall pay the seller the amount remaining due under the contract in order to receive the goods and services set out in the contract, otherwise the purchaser or their estate will receive full credit for all payments the purchaser has made towards the cost of the beneficiary's funeral at the provider current prices.

**536.063. CONTESTED CASE, HOW INSTITUTED — PLEADINGS — COPIES SENT PARTIES.** — In any contested case:

(1) The contested case shall be commenced by the filing of a writing by which the party or agency instituting the proceeding seeks such action as by law can be taken by the agency only after



opportunity for hearing, or seeks a hearing for the purpose of obtaining a decision reviewable upon the record of the proceedings and evidence at such hearing, or upon such record and additional evidence, either by a court or by another agency. Answering, intervening and amendatory writings and motions may be filed in any case and shall be filed where required by rule of the agency, except that no answering instrument shall be required unless the notice of institution of the case states such requirement. Entries of appearance shall be permitted[.] ;

(2) Any writing filed whereby affirmative relief is sought shall state what relief is sought or proposed and the reason for granting it, and shall not consist merely of statements or charges phrased in the language of a statute or rule; provided, however, that this subdivision shall not apply when the writing is a notice of appeal as authorized by law[.] ;

(3) Reasonable opportunity shall be given for the preparation and presentation of evidence bearing on any issue raised or decided or relief sought or granted. Where issues are tried without objection or by consent, such issues shall be deemed to have been properly before the agency. Any formality of procedure may be waived by mutual consent[.] ;

(4) Every writing seeking relief or answering any other writing, and any motion shall state the name and address of the attorney, if any, filing it; otherwise the name and address of the party filing it[.] ;

(5) By rule the agency may require any party filing such a writing to furnish, in addition to the original of such writing, the number of copies required for the agency's own use and the number of copies necessary to enable the agency to comply with the provisions of this subdivision hereinafter set forth. The agency shall, without charge therefor, mail one copy of each such writing, as promptly as possible after it is filed, to every party or his **or her** attorney who has filed a writing or who has entered his **or her** appearance in the case, and who has not theretofore been furnished with a copy of such writing and shall have requested copies of the writings; provided that in any case where the parties are so numerous that the requirements of this subdivision would be unduly onerous, the agency may in lieu thereof (a) notify all parties of the fact of the filing of such writing, and (b) permit any party to copy such writing[.] ;

**(6) When a holder of a license, registration, permit, or certificate of authority issued by the division of professional registration or a board, commission, or committee of the division of professional registration against whom an affirmative decision is sought has failed to plead or otherwise respond in the contested case and adequate notice has been given under section 536.067 upon a properly pled writing filed to initiate the contested case under this chapter, a default decision shall be entered against the licensee without further proceedings. The default decision shall grant such relief as requested by the division of professional registration, board, committee, commission, or office in the writing initiating the contested case as allowed by law. Upon motion stating facts constituting a meritorious defense and for good cause shown, a default decision may be set aside. The motion shall be made within a reasonable time, not to exceed thirty days after entry of the default decision. "Good cause" includes a mistake or conduct that is not intentionally or recklessly designed to impede the administrative process.**

**536.067. NOTICE IN CONTESTED CASE — MAILING — CONTENTS — NOTICE OF HEARING — TIME FOR.** — In any contested case:

(1) The agency shall promptly mail a notice of institution of the case to all necessary parties, if any, and to all persons designated by the moving party and to any other persons to whom the agency may determine that notice should be given. The agency or its clerk or secretary shall keep a permanent record of the persons to whom such notice was sent and of the addresses to which sent and the time when sent. Where a contested case would affect the rights, privileges or duties of a large number of persons whose interests are sufficiently similar that they may be considered as a class, notice may in a proper case be given to a reasonable number thereof as representatives of

such class. In any case where the name or address of any proper or designated party or person is not known to the agency, and where notice by publication is permitted by law, then notice by publication may be given in accordance with any rule or regulation of the agency or if there is no such rule or regulation, then, in a proper case, the agency may by a special order fix the time and manner of such publication[.] ;

(2) The notice of institution of the case to be mailed as provided in this section shall state in substance:

- (a) The caption and number of the case;
- (b) That a writing seeking relief has been filed in such case, the date it was filed, and the name of the party filing the same;
- (c) A brief statement of the matter involved in the case unless a copy of the writing accompanies said notice;
- (d) Whether an answer to the writing is required, and if so the date when it must be filed;
- (e) That a copy of the writing may be obtained from the agency, giving the address to which application for such a copy may be made. This may be omitted if the notice is accompanied by a copy of such writing;
- (f) The location in the Code of State Regulations of any rules of the agency regarding discovery or a statement that the agency shall send a copy of such rules on request;

(3) Unless the notice of hearing hereinafter provided for shall have been included in the notice of institution of the case, the agency shall, as promptly as possible after the time and place of hearing have been determined, mail a notice of hearing to the moving party and to all persons and parties to whom a notice of institution of the case was required to be or was mailed, and also to any other persons who may thereafter have become or have been made parties to the proceeding. The notice of hearing shall state:

- (a) The caption and number of the case;
  - (b) The time and place of hearing;
- (4) No hearing in a contested case shall be had, except by consent, until a notice of hearing shall have been given substantially as provided in this section, and such notice shall in every case be given a reasonable time before the hearing. Such reasonable time shall be at least ten days except in cases where the public morals, health, safety or interest may make a shorter time reasonable; provided that when a longer time than ten days is prescribed by statute, no time shorter than that so prescribed shall be deemed reasonable;

**(5) When a holder of a license, registration, permit, or certificate of authority issued by the division of professional registration or a board, commission, or committee of the division of professional registration against whom an affirmative decision is sought has failed to plead or otherwise respond in the contested case and adequate notice has been given under this section upon a properly pled writing filed to initiate the contested case under this chapter, a default decision shall be entered against the holder of a license, registration, permit, or certificate of authority without further proceedings. The default decision shall grant such relief as requested by the division of professional registration, board, committee, commission, or office in the writing initiating the contested case as allowed by law. Upon motion stating facts constituting a meritorious defense and for good cause shown, a default decision may be set aside. The motion shall be made within a reasonable time, not to exceed thirty days after entry of the default decision. "Good cause" includes a mistake or conduct that is not intentionally or recklessly designed to impede the administrative process.**

**536.070. EVIDENCE — WITNESSES — OBJECTIONS — JUDICIAL NOTICE — AFFIDAVITS AS EVIDENCE — TRANSCRIPT.** — In any contested case:

- (1) Oral evidence shall be taken only on oath or affirmation[.] ;
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(2) Each party shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not the subject of the direct examination, to impeach any witness regardless of which party first called him **or her** to testify, and to rebut the evidence against him[.] **or her**;

(3) A party who does not testify in his **or her** own behalf may be called and examined as if under cross-examination[.] ;

(4) Each agency shall cause all proceedings in hearings before it to be suitably recorded and preserved. A copy of the transcript of such a proceeding shall be made available to any interested person upon the payment of a fee which shall in no case exceed the reasonable cost of preparation and supply[.] ;

(5) Records and documents of the agency which are to be considered in the case shall be offered in evidence so as to become a part of the record, the same as any other evidence, but the records and documents may be considered as a part of the record by reference thereto when so offered[.] ;

(6) Agencies shall take official notice of all matters of which the courts take judicial notice. They may also take official notice of technical or scientific facts, not judicially cognizable, within their competence, if they notify the parties, either during a hearing or in writing before a hearing, or before findings are made after hearing, of the facts of which they propose to take such notice and give the parties reasonable opportunity to contest such facts or otherwise show that it would not be proper for the agency to take such notice of them[.] ;

(7) Evidence to which an objection is sustained shall, at the request of the party seeking to introduce the same, or at the instance of the agency, nevertheless be heard and preserved in the record, together with any cross-examination with respect thereto and any rebuttal thereof, unless it is wholly irrelevant, repetitious, privileged, or unduly long[.] ;

(8) Any evidence received without objection which has probative value shall be considered by the agency along with the other evidence in the case. The rules of privilege shall be effective to the same extent that they are now or may hereafter be in civil actions. Irrelevant and unduly repetitious evidence shall be excluded[.] ;

(9) Copies of writings, documents and records shall be admissible without proof that the originals thereof cannot be produced, if it shall appear by testimony or otherwise that the copy offered is a true copy of the original, but the agency may, nevertheless, if it believes the interests of justice so require, sustain any objection to such evidence which would be sustained were the proffered evidence offered in a civil action in the circuit court, but if it does sustain such an objection, it shall give the party offering such evidence reasonable opportunity and, if necessary, opportunity at a later date, to establish by evidence the facts sought to be proved by the evidence to which such objection is sustained[.] ;

(10) Any writing or record, whether in the form of an entry in a book or otherwise, made as a memorandum or record of an act, transaction, occurrence or event, shall be admissible as evidence of the act, transaction, occurrence or event, if it shall appear that it was made in the regular course of any business, and that it was the regular course of such business to make such memorandum or record at the time of such act, transaction, occurrence, or event or within a reasonable time thereafter. All other circumstances of the making of such writing or record, including lack of personal knowledge by the entrant or maker, may be shown to affect the weight of such evidence, but such showing shall not affect its admissibility. The term "business" shall include business, profession, occupation and calling of every kind[.] ;

(11) The results of statistical examinations or studies, or of audits, compilations of figures, or surveys, involving interviews with many persons, or examination of many records, or of long or complicated accounts, or of a large number of figures, or involving the ascertainment of many related facts, shall be admissible as evidence of such results, if it shall appear that such examination, study, audit, compilation of figures, or survey was made by or under the supervision

of a witness, who is present at the hearing, who testifies to the accuracy of such results, and who is subject to cross-examination, and if it shall further appear by evidence adduced that the witness making or under whose supervision such examination, study, audit, compilation of figures, or survey was made was basically qualified to make it. All the circumstances relating to the making of such an examination, study, audit, compilation of figures or survey, including the nature and extent of the qualifications of the maker, may be shown to affect the weight of such evidence but such showing shall not affect its admissibility[.] ;

(12) Any party or the agency desiring to introduce an affidavit in evidence at a hearing in a contested case may serve on all other parties (including, in a proper case, the agency) copies of such affidavit in the manner hereinafter provided, at any time before the hearing, or at such later time as may be stipulated. Not later than seven days after such service, or at such later time as may be stipulated, any other party (or, in a proper case, the agency) may serve on the party or the agency who served such affidavit an objection to the use of the affidavit or some designated portion or portions thereof on the ground that it is in the form of an affidavit; provided, however, that if such affidavit shall have been served less than eight days before the hearing such objection may be served at any time before the hearing or may be made orally at the hearing. If such objection is so served, the affidavit or the part thereof to which objection was made, may not be used except in ways that would have been permissible in the absence of this subdivision; provided, however, that such objection may be waived by the party or the agency making the same. Failure to serve an objection as aforesaid, based on the ground aforesaid, shall constitute a waiver of all objections to the introduction of such affidavit, or of the parts thereof with respect to which no such objection was so served, on the ground that it is in the form of an affidavit, or that it constitutes or contains hearsay evidence, or that it is not, or contains matters which are not, the best evidence, but any and all other objections may be made at the hearing. Nothing herein contained shall prevent the cross-examination of the affiant if he **or she** is present in obedience to a subpoena or otherwise and if he **or she** is present, he **or she** may be called for cross-examination during the case of the party who introduced the affidavit in evidence. If the affidavit is admissible in part only it shall be admitted as to such part, without the necessity of preparing a new affidavit. The manner of service of such affidavit and of such objection shall be by delivering or mailing copies thereof to the attorneys of record of the parties being served, if any, otherwise, to such parties, and service shall be deemed complete upon mailing; provided, however, that when the parties are so numerous as to make service of copies of the affidavit on all of them unduly onerous, the agency may make an order specifying on what parties service of copies of such affidavit shall be made, and in that case a copy of such affidavit shall be filed with the agency and kept available for inspection and copying. Nothing in this subdivision shall prevent any use of affidavits that would be proper in the absence of this subdivision.

**621.045. COMMISSION TO CONDUCT HEARINGS, MAKE DETERMINATIONS — BOARDS INCLUDED — SETTLEMENT AGREEMENTS, DEFAULT DECISION, WHEN. — 1.** The administrative hearing commission shall conduct hearings and make findings of fact and conclusions of law in those cases when, under the law, a license issued by any of the following agencies may be revoked or suspended or when the licensee may be placed on probation or when an agency refuses to permit an applicant to be examined upon his **or her** qualifications or refuses to issue or renew a license of an applicant who has passed an examination for licensure or who possesses the qualifications for licensure without examination:

Missouri State Board of Accountancy

Missouri State Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects

Board of Barber Examiners

Board of Cosmetology

Board of Chiropody and Podiatry

Board of Chiropractic Examiners  
Missouri Dental Board  
Board of Embalmers and Funeral Directors  
Board of Registration for the Healing Arts  
Board of Nursing  
Board of Optometry  
Board of Pharmacy  
Missouri Real Estate Commission  
Missouri Veterinary Medical Board  
Supervisor of Liquor Control  
Department of Health and Senior Services  
Department of Insurance, Financial Institutions and Professional Registration  
Department of Mental Health  
Board of Private Investigator Examiners.

2. If in the future there are created by law any new or additional administrative agencies which have the power to issue, revoke, suspend, or place on probation any license, then those agencies are under the provisions of this law.

3. The administrative hearing commission is authorized to conduct hearings and make findings of fact and conclusions of law in those cases brought by the Missouri state board for architects, professional engineers, professional land surveyors and landscape architects against unlicensed persons under section 327.076.

4. Notwithstanding any other provision of this section to the contrary, after August 28, 1995, in order to encourage settlement of disputes between any agency described in subsection 1 or 2 of this section and its licensees, any such agency shall:

(1) Provide the licensee with a written description of the specific conduct for which discipline is sought and a citation to the law and rules allegedly violated, together with copies of any documents which are the basis thereof and the agency's initial settlement offer, or file a contested case against the licensee;

(2) If no contested case has been filed against the licensee, allow the licensee at least sixty days, from the date of mailing, to consider the agency's initial settlement offer and to contact the agency to discuss the terms of such settlement offer;

(3) If no contested case has been filed against the licensee, advise the licensee that the licensee may, either at the time the settlement agreement is signed by all parties, or within fifteen days thereafter, submit the agreement to the administrative hearing commission for determination that the facts agreed to by the parties to the settlement constitute grounds for denying or disciplining the license of the licensee; and

(4) In any contact under this subsection by the agency or its counsel with a licensee who is not represented by counsel, advise the licensee that the licensee has the right to consult an attorney at the licensee's own expense.

5. If the licensee desires review by the administrative hearing commission under subdivision (3) of subsection 4 of this section at any time prior to the settlement becoming final, the licensee may rescind and withdraw from the settlement and any admissions of fact or law in the agreement shall be deemed withdrawn and not admissible for any purposes under the law against the licensee. Any settlement submitted to the administrative hearing commission shall not be effective and final unless and until findings of fact and conclusions of law are entered by the administrative hearing commission that the facts agreed to by the parties to the settlement constitute grounds for denying or disciplining the license of the licensee.

**6. When a holder of a license, registration, permit, or certificate of authority issued by the division of professional registration or a board, commission, or committee of the division of professional registration against whom an affirmative decision is sought has failed to plead or otherwise respond in the contested case and adequate notice has been**

given under sections 536.067 and 621.100 upon a properly pled writing filed to initiate the contested case under this chapter or chapter 536, a default decision shall be entered against the licensee without further proceedings. The default decision shall grant such relief as requested by the division of professional registration, board, committee, commission, or office in the writing initiating the contested case as allowed by law. Upon motion stating facts constituting a meritorious defense and for good cause shown, a default decision may be set aside. The motion shall be made within a reasonable time, not to exceed thirty days after entry of the default decision. "Good cause" includes a mistake or conduct that is not intentionally or recklessly designed to impede the administrative process.

**621.100. COMPLAINTS — NOTICE — AGENCY MAY RETAIN COUNSEL — DEFAULT DECISION, WHEN — AFFIDAVIT REGARDING LICENSEE'S STATUS, PROCEDURE.** — 1. Upon receipt of a written complaint from an agency named in section 621.045 in a case relating to a holder of a license granted by such agency, or upon receipt of such complaint from the attorney general, the administrative hearing commission shall cause a copy of said complaint to be served upon such licensee in person, **or by leaving a copy of the complaint at the licensee's dwelling house or usual place of abode or last address given to the agency by the licensee with some person residing or present therein over the age of fifteen,** or by certified mail, together with a notice of the place of and the date upon which the hearing on said complaint will be held. If service cannot be accomplished [in person or by certified mail] **as described in this section,** notice by publication as described in subsection 3 of section 506.160 shall be allowed; any commissioner is authorized to act as a court or judge would in that section, and any employee of the commission is authorized to act as a clerk would in that section. In any case initiated upon complaint of the attorney general, the agency which issued the license shall be given notice of such complaint and the date upon which the hearing will be held by delivery of a copy of such complaint and notice to the office of such agency or by certified mail. Such agency may intervene and may retain the services of legal counsel to represent it in such case.

2. **When a holder of a license, registration, permit, or certificate of authority issued by the division of professional registration or a board, commission, or committee of the division of professional registration against whom an affirmative decision is sought has failed to plead or otherwise respond in the contested case and adequate notice has been given under this section and section 536.067 upon a properly pled writing filed to initiate the contested case under this chapter or chapter 536, a default decision shall be entered against the licensee without further proceedings. The default decision shall grant such relief as requested by the division of professional registration, board, committee, commission, or office in the writing initiating the contested case as allowed by law. Upon motion stating facts constituting a meritorious defense and for good cause shown, a default decision may be set aside. The motion shall be made within a reasonable time, not to exceed thirty days after entry of the default decision. "Good cause" includes a mistake or conduct that is not intentionally or recklessly designed to impede the administrative process.**

3. In any case initiated under this section, the custodian of the records of an agency may prepare a sworn affidavit stating truthfully pertinent information regarding the license status of the licensee charged in the complaint, including only: the name of the licensee; his **or her** license number; its designated date of expiration; the date of his **or her** original Missouri licensure; the particular profession, practice or privilege licensed; and the status of his **or her** license as current and active or otherwise. This affidavit shall be received as substantial and competent evidence of the facts stated therein notwithstanding any objection as to the form, manner of presentment or admissibility of this evidence, and shall create a rebuttable presumption of the veracity of the statements therein; provided, however, that the procedures specified in section 536.070 shall apply

to the introduction of this affidavit in any case where the status of this license constitutes a material issue of fact in the proof of the cause charged in the complaint.

**621.110. COMMISSION'S FINDINGS AND RECOMMENDATIONS — HEARING BY AGENCY ON DISCIPLINARY ACTION.** — Upon a finding in any cause charged by the complaint for which the license may be suspended or revoked as provided in the statutes and regulations relating to the profession or vocation of the licensee **and within one hundred twenty days of the date the case became ready for decision**, the commission shall deliver or transmit by mail to the agency which issued the license the record and a transcript of the proceedings before the commission together with the commission's findings of fact and conclusions of law. The commission may make recommendations as to appropriate disciplinary action but any such recommendations shall not be binding upon the agency. A copy of the findings of fact, conclusions of law and the commission's recommendations, if any, shall be delivered or transmitted by mail to the licensee if the licensee's whereabouts are known, and to any attorney who represented the licensee. Within thirty days after receipt of the record of the proceedings before the commission and the findings of fact, conclusions of law, and recommendations, if any, of the commission, the agency shall set the matter for hearing upon the issue of appropriate disciplinary action and shall notify the licensee of the time and place of the hearing, provided that such hearing may be waived by consent of the agency and licensee where the commission has made recommendations as to appropriate disciplinary action. In case of such waiver by the agency and licensee, the recommendations of the commission shall become the order of the agency. The licensee may appear at said hearing and be represented by counsel. The agency may receive evidence relevant to said issue from the licensee or any other source. After such hearing the agency may order any disciplinary measure it deems appropriate and which is authorized by law. In any case where the commission fails to find any cause charged by the complaint for which the license may be suspended or revoked, the commission shall dismiss the complaint, and so notify all parties.

Approved July 13, 2011

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## HB 270 [SCS HB 270]

**EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.**

### **Changes the laws regarding health insurance benefits for state employees**

AN ACT to repeal sections 103.080 and 103.089, RSMo, and to enact in lieu thereof two new sections relating to the state employee health insurance program.

#### SECTION

- A. Enacting clause.
- 103.080. High deductible plans and health savings accounts to be offered — definitions — premiums — consumer-driven health care plans — rulemaking authority.
- 103.089. Medicare benefits participants, effect.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 103.080 and 103.089, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 103.080 and 103.089, to read as follows:

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**103.080. HIGH DEDUCTIBLE PLANS AND HEALTH SAVINGS ACCOUNTS TO BE OFFERED — DEFINITIONS — PREMIUMS — CONSUMER-DRIVEN HEALTH CARE PLANS — RULEMAKING AUTHORITY.**— 1. As used in this section, the following terms shall mean:

(1) "Health savings account" or "account", shall have the same meaning ascribed to it as in 26 U.S.C. Section 223(d), as amended;

(2) "High deductible health plan", a policy or contract of health insurance or health care plan that meets the criteria established in 26 U.S.C. Section 223(c)(2), as amended, and any regulations promulgated thereunder.

2. Beginning with the open enrollment period for the 2009 plan year, the board shall offer to all qualified state employees and retirees, in addition to the plans currently offered including but not limited to health maintenance organization plans, preferred provider organization plans, copay plans, and participating public entities the option of receiving health care coverage through a high deductible health plan and the establishment of a health savings account. [In no instance shall a qualified employee or retiree be required to enroll in a high deductible health plan with a deductible greater than the minimum allowed by law, however, a qualified employee or retiree shall have the option to enroll in a high deductible health plan up to the maximum allowed by law.] The health savings account shall conform to the guidelines to be established by the Internal Revenue Service for the [2009] **current** tax year but in no case shall a qualified employee or retiree be required to contribute more than the minimum amount allowed by law. A qualified employee or retiree may contribute up to the maximum allowed by law. In order for a qualified individual to obtain a high deductible health plan through the Missouri consolidated health care plan, such individual shall present evidence, in a manner prescribed by regulation, to the board that he or she has established a health savings account in compliance with 26 U.S.C. Section 223, and any amendments and regulations promulgated thereto.

3. **Beginning with the open enrollment period for the 2012 plan year, the high deductible health plan offered under subsection 2 of this section shall have monthly subscriber premiums that are materially lower than non-high deductible health plan monthly subscriber premiums with a goal of monthly subscriber premiums being at least fifty percent lower than non-high deductible health plan premiums. The amount of the annual deductible for the high deductible health plan offered under subsection 2 of this section shall be no greater than two hundred percent of the minimum annual deductible for self-only coverage and family coverage as established by the Internal Revenue Service for the current tax year. The coverage afforded by the high deductible health plan, after the applicable deductible has been met, shall be substantially similar or better than the average coverage provided by the non-high deductible health plans.**

4. **It is the intent of the Missouri general assembly to promote the use of consumer-driven health care plans such as health savings account compatible high deductible health plans by active state employees as an alternative to using traditional managed care plans. If, after the completion of the open enrollment period for the 2012 plan year, fewer than ten percent of Missouri's active state employees have enrolled in a high deductible health plan described in this section, then the board shall offer a more competitive high deductible health plan with increased financial and coverage incentives, including but not limited to alternative annual deductibles, out-of-pocket expenses, and other health plan design features, all within the established federal guidelines, with the goal of having forty percent of Missouri's active state employees enrolling in a health savings account compatible high deductible health plan by the open enrollment period for the 2015 plan year.**

5. The board is authorized to promulgate rules and regulations for the administration and implementation of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section



536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

[4.] **6.** The board shall issue a request for proposals from companies interested in offering a high deductible health plan in connection with a health savings account.

**103.089. MEDICARE BENEFITS PARTICIPANTS, EFFECT.** — Participants in the program of medical benefits coverage provided by sections 103.003 to 103.175 who are eligible for Medicare benefits and who are not eligible for the program of medical benefits coverage provided under sections 103.083 to 103.098 to be their primary plan of coverage benefits shall be provided [the same] **substantially similar** benefits provided participants who are not eligible for Medicare benefits. Medical benefits coverage provided under sections 103.003 to 103.175 shall be coordinated with Medicare benefits for participants covered by part A or part B, or both, of Medicare benefits, or **for participants eligible for but not covered by part A or part B, or both, of Medicare benefits**, reduced by an amount determined by the claims administrator to provide a benefit equivalent to the amount which would be provided on a coordination of benefit basis for **such** participants [not] **if such participants were** covered by part A or part B, or both, of Medicare benefits. As used in sections 103.083 to 103.098, the term "Medicare benefits" shall include those medical benefits provided by Title XVIII, A and B, Public Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. section 301, et seq.) and amendments thereto. Any participating member agency having employees or eligible retirees not covered by Medicare shall authorize the plan at its option to enroll those individuals for medical benefits as provided by Title XVIII, A and B, Public Law 89-97, 1965 amendments to the federal Social Security Act whenever they become eligible for such benefits and the plan shall pay the premium for such enrollment on behalf of that person. The Medicare premium amounts shall be included in the rate established by the actuary for providing medical benefits coverage to such a participating member agency. Anyone not authorizing this Medicare enrollment shall be denied coverage.

Approved July 7, 2011

## HB 282 [SS SCS HB 282]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

### Changes the laws regarding public employee retirement

AN ACT to repeal sections 70.710, 70.720, 70.730, 86.900, 86.1030, 86.1100, 86.1110, 86.1120, 86.1140, 86.1150, 86.1230, 86.1240, 86.1250, 86.1310, 86.1420, 86.1480, 86.1490, 86.1500, 86.1510, 86.1540, 86.1560, 86.1600, 86.1610, 86.1620, 87.205, 87.207, 105.661, 105.915, and 105.927, RSMo, and to enact in lieu thereof thirty-two new sections relating to public employee retirement.

#### SECTION

- A. Enacting clause.
- 70.710. Employer accumulation fund, created, uses — employer contributions.
- 70.720. Casualty reserve fund, created, source of funds, uses.
- 70.730. Employer's contributions, how computed.
- 86.900. Definitions.
- 86.1030. Benefits and administrative expenses to be paid by retirement system funds — commencement of base pension — death of a member, effect of.

- 86.1100. Creditable service, board to fix and determine by rule.
- 86.1110. Military leave of absence, effect of — service credit for military service, when.
- 86.1120. Termination of members after five or more years of service, credit towards retirement.
- 86.1140. Leave of absence not to act as termination of membership — creditable service permitted, when.
- 86.1150. Retirement age — base pension amount.
- 86.1230. Supplemental retirement benefits, amount — member to be special consultant, compensation.
- 86.1240. Pensions of spouses of deceased members — surviving spouse to be appointed as consultant to board, when.
- 86.1250. Pensions of children of deceased members.
- 86.1310. Definitions.
- 86.1420. Benefits and administrative expenses to be paid by system funds — commencement of base pension, when — death of member, effect of.
- 86.1480. Who shall be members.
- 86.1490. Creditable service, determination of — inclusions and exclusions.
- 86.1500. Military service, effect on creditable service — election to purchase creditable service, when — service credit for military service, when.
- 86.1510. Members entitled to prior creditable service, when.
- 86.1540. Normal pension, amount — early retirement option, when — election for optional benefit for spouse — pension after five years of creditable service — felony conviction, effect of.
- 86.1560. Disability retirement pension, amount — definitions — board to determine disability, proof may be required.
- 86.1600. Supplemental retirement benefit, amount, cost-of-living adjustments — special consultant, compensation — cost-of-living adjustments, rulemaking authority — member defined.
- 86.1610. Death of member in service, benefit to be received — death of member after retirement, benefit to be received — surviving spouse benefits.
- 86.1620. Funeral benefits, amount.
- 87.127. Qualified government plan, retirement plan intended to be.
- 87.205. Accidental disability retirement allowance.
- 87.207. Cost-of-living increase, how determined.
- 100.273. Development finance board employees are state employees eligible for state retirement — not eligible for state health insurance plan unless requested by board — no purchase of creditable service, exception.
- 104.603. Reciprocal transfer of creditable service, when.
- 105.661. All retirement plans to prepare financial report, content audit by state auditor and joint committee on public employee retirement — rules submitted to joint committee on public employee retirement, when — report required.
- 105.915. Board to administer plan — written agreement required — immunity from liability, when — automatic designation of surviving spouse as primary beneficiary, when.
- 105.927. State's contribution to participants in deferred compensation program.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 70.710, 70.720, 70.730, 86.900, 86.1030, 86.1100, 86.1110, 86.1120, 86.1140, 86.1150, 86.1230, 86.1240, 86.1250, 86.1310, 86.1420, 86.1480, 86.1490, 86.1500, 86.1510, 86.1540, 86.1560, 86.1600, 86.1610, 86.1620, 87.205, 87.207, 105.661, 105.915, and 105.927, RSMo, are repealed and thirty-two new sections enacted in lieu thereof, to be known as sections 70.710, 70.720, 70.730, 86.900, 86.1030, 86.1100, 86.1110, 86.1120, 86.1140, 86.1150, 86.1230, 86.1240, 86.1250, 86.1310, 86.1420, 86.1480, 86.1490, 86.1500, 86.1510, 86.1540, 86.1560, 86.1600, 86.1610, 86.1620, 87.127, 87.205, 87.207, 100.273, 104.603, 105.661, 105.915, and 105.927, to read as follows:

**70.710. EMPLOYER ACCUMULATION FUND, CREATED, USES — EMPLOYER CONTRIBUTIONS.** — 1. The "Employer Accumulation Fund" is hereby created. It is the fund in which shall be accumulated the contributions made by employers for benefits, and from which shall be made transfers, as provided in sections 70.600 to 70.755.

2. When paid to the system, the employer contributions provided for in subsections 2 and 3 of section 70.730 shall be credited to the employer accumulation fund account of the employer making the contributions.

3. When an allowance other than a disability allowance **or an allowance that results from a member's death that was the natural and proximate result of a personal injury or disease arising out of and in the course of his or her actual performance of duty as an employee** first becomes due and payable, there shall be transferred to the benefit reserve fund from his employer's account in the employer accumulation fund the difference between the reserve

for the allowance and the accumulated contributions standing to his credit in the members deposit fund at the time the allowance first becomes due and payable, of the member or former member to whom or on whose behalf the allowance is payable.

4. A separate account shall be maintained in the employer accumulation fund for each employer. No employer shall be responsible for the employer accumulation fund liabilities of another employer.

5. When a disability allowance **or an allowance that results from a member's death that was the natural and proximate result of a personal injury or disease arising out of and in the course of his or her actual performance of duty as an employee** first becomes due and payable, the accrued service pension reserve covering the retiring member shall be calculated in the manner provided for in subsection 3 of section 70.730, as of the effective date of the disability allowance. Such reserve shall be transferred to the benefit reserve fund from the employer's account in the employer accumulation fund.

**70.720. CASUALTY RESERVE FUND, CREATED, SOURCE OF FUNDS, USES.** — 1. The "Casualty Reserve Fund" is hereby created. It is the fund in which shall be accumulated the contributions made by employers for pensions **either** to be paid members who retire on account of disability **or that result from a member's death that was the natural and proximate result of a personal injury or disease arising out of and in the course of his or her actual performance of duty as an employee**, and from which shall be made transfers as provided in sections 70.600 to 70.755.

2. When paid to the system, the employer contributions provided for in subsection 4 of section 70.730 shall be credited to the casualty reserve fund.

3. When a disability allowance **or an allowance that results from a member's death that was the natural and proximate result of a personal injury or disease arising out of and in the course of his or her actual performance of duty as an employee** first becomes due and payable, there shall be transferred to the benefit reserve fund from the casualty reserve fund an amount equal to the reserve for the allowance, minus:

(1) The accumulated contributions, standing to the member's credit in the members deposit fund at the time the allowance first becomes due and payable; and

(2) The accrued service pension reserve determined pursuant to subsection 5 of section 70.710.

**70.730. EMPLOYER'S CONTRIBUTIONS, HOW COMPUTED.** — 1. Each employer's contributions to the system shall be the total of the contribution amounts provided for in subsections 2 through 5 of this section; provided, that such contributions shall be subject to the provisions of subsection 6 of this section.

2. An employer's normal cost contributions shall be determined as follows: Using the financial assumptions adopted by the board from time to time, the actuary shall annually compute the rate of contributions which, if paid annually by each employer during the total service of its members, will be sufficient to provide the pension reserves required at the time of their retirements to cover the pensions to which they might be entitled or which might be payable on their behalf. The board shall annually certify to the governing body of each employer the amount of membership service contribution so determined, and each employer shall pay such amount to the system during the employer's next fiscal year which begins six months or more after the date of such board certification. Such payments shall be made in such manner and form and in such frequency and shall be accompanied by such supporting data as the board shall from time to time determine. When received, such payments shall be credited to the employer's account in the employer accumulation fund.

3. An employer's accrued service contributions shall be determined as follows: Using the financial assumptions adopted by the board from time to time, the actuary shall annually compute for each employer the portions of pension reserves for pensions which will not be provided by future normal cost contributions. The accrued service pension reserves so determined for each employer less the employer's applicable balance in the employer accumulation fund shall be amortized over a period of years, as determined by the board. Such period of years shall not extend beyond the latest of (1) forty years from the date the political subdivision became an employer, or (2) thirty years from the date the employer last elected to increase its optional benefit program, or (3) fifteen years from the date of the annual actuarial computation. The board shall annually certify to the governing body of each employer the amount of accrued service contribution so determined for the employer, and each employer shall pay such amount to the system during the employer's next fiscal year which begins six months or more after the date of such board certification. Such payments shall be made in such manner and form and in such frequency and shall be accompanied by such supporting data as the board shall from time to time determine. When received, such payments shall be credited to the employer's account in the employer accumulation fund.

4. The employer's contributions for the portions of disability pensions **or pensions that result from a member's death that was the natural and proximate result of a personal injury or disease arising out of and in the course of his or her actual performance of duty as an employee** not covered by accrued service pension reserves shall be determined on a one-year term basis. The board may determine different rates of contributions for employers having policeman members or having fireman members or having neither policeman members nor fireman members. The board shall annually certify to the governing body of each employer the amount of contribution so ascertained for the employer, and each employer shall pay such amount to the system during the employer's next fiscal year which begins six months or more after the date of such board certification. Such payments shall be made in such manner and form and in such frequency and shall be accompanied by such supporting data as the board shall from time to time ascertain. When received, such payments shall be credited to the casualty reserve fund.

5. Each employer shall provide its share, as determined by the board, of the administrative expenses of the system and shall pay **the** same to the system to be credited to the income-expense fund.

6. The employer's total contribution to the system, expressed as a percent of active member compensations, in any employer fiscal year, beginning with the second fiscal year that the political subdivision is an employer, shall not exceed its total contributions for the immediately preceding fiscal year, expressed as a percent of active member compensations, by more than one percent.

**86.900. DEFINITIONS.** — The following words and phrases as used in sections 86.900 to 86.1280 shall have the following meanings unless a different meaning is plainly required by the context:

(1) "Accumulated contributions", the sum of all amounts deducted from the compensation of a member and paid to the retirement board, together with all amounts paid to the retirement board by a member or by a member's beneficiary, for the purchase of prior service credits or any other purpose permitted under sections 86.900 to 86.1280;

(2) "Actuarial cost", **the present value of a future payment or series of payments as calculated by applying the actuarial assumptions established according to subsection 8 of section 86.1270;**

(3) "Beneficiary", any person entitled, either currently or conditionally, to receive pension or other benefits provided in sections 86.900 to 86.1280;

[(3)] (4) "Board of police commissioners", the board composed of police commissioners authorized by law to employ and manage an organized police force in the cities;

[(4)] (5) "City" or "cities", any city which now has or may hereafter have a population of more than three hundred thousand and less than seven hundred thousand inhabitants, or any city that has made an election under section 86.910 to continue a police retirement system maintained under sections 86.900 to 86.1280;

[(5)] (6) "Compensation", the basic wage or salary paid a member for any period on the basis of the member's rank and position, excluding bonuses, overtime pay, expense allowances, and other extraordinary compensation; except that, notwithstanding such provision, compensation for any year for any member shall not exceed the amount permitted to be taken into account under Section 401(a)(17) of the Internal Revenue Code as applicable to such year;

[(6)] (7) "Consultant", unless otherwise specifically defined, a person retained by the retirement system as a special consultant on the problems of retirement, aging and related matters who, upon request of the retirement board, shall give opinions and be available to give opinions in writing or orally in response to such requests, as may be needed by the board;

[(7)] (8) "Creditable service", service qualifying as a determinant of a member's pension or other benefit under sections 86.900 to 86.1280 by meeting the requirements specified in said sections or section 105.691;

[(8)] (9) "Final compensation", the average annual compensation of a member during the member's service if less than two years, or the twenty-four months of service for which the member received the highest salary whether consecutive or otherwise. In computing the average annual compensation of a member, no compensation for service after the thirtieth full year of membership service shall be included. For any period of time when a member is paid on a frequency other than monthly, the member's salary for such period shall be deemed to be the monthly equivalent of the member's annual rate of compensation for such period;

[(9)] (10) "Fiscal year", for the retirement system, the fiscal year of the cities;

[(10)] (11) "Internal Revenue Code", the United States Internal Revenue Code of 1986, as amended;

[(11)] (12) "Medical board", not less than one nor more than three physicians appointed by the retirement board to arrange for and conduct medical examinations as directed by the retirement board;

[(12)] (13) "Member", a member of the police retirement system as described in section 86.1090;

[(13)] (14) "Pension", annual payments for life, payable monthly, [beginning with the date of retirement or other applicable commencement date and ending with death] **at the times described in section 86.1030;**

[(14)] (15) "Pension fund", the fund resulting from contributions made thereto by the cities affected by sections 86.900 to 86.1280 and by the members of the police retirement system;

[(15)] (16) "Police officer", an officer or member of the police department of the cities employed for compensation by the boards of police commissioners of the cities for police duty who holds a rank or position for which an annual salary range is provided in section 84.480 or 84.510; in case of dispute as to whether any person is a police officer qualified for membership in the retirement system, the decision of the board of police commissioners shall be final;

[(16)] (17) "Retirement board" or "board", the board provided in section 86.920 to administer the retirement system;

[(17)] (18) "Retirement system", the police retirement system of the cities as defined in section 86.910;

[(18)] (19) "Surviving spouse", when determining whether a person is entitled to benefits under sections 86.900 to 86.1280 by reason of surviving a member, shall include only:

(a) A person who was married to a member at the time of the member's death in the line of duty or from an occupational disease arising out of and in the course of the member's employment and who had not, after the member's death and prior to August 28, 2000, remarried;

(b) With respect to a member who retired or died prior to August 28, 1997, a spouse who survives such member, whose marriage to such member occurred at least two years before the member's retirement or at least two years before the member's death while in service, and who had not remarried anyone other than the member prior to August 28, 2000;

(c) With respect to a member who retired or died while in service after August 28, 1997, and before August 28, 2000, a spouse who survives such member, was married to such member at the time of such member's retirement or of such member's death while in service, and had not, after the member's death and prior to August 28, 2000, remarried; and

(d) With respect to a member who retires or dies in service after August 28, 2000, a spouse who survives a member and was married to such member at the time of such member's retirement or death while in service.

**86.1030. BENEFITS AND ADMINISTRATIVE EXPENSES TO BE PAID BY RETIREMENT SYSTEM FUNDS — COMMENCEMENT OF BASE PENSION — DEATH OF A MEMBER, EFFECT OF.** — 1. All benefits and all necessary administrative expenses of the retirement system shall be paid from the funds of the retirement system.

2. The base pension of a member who, after August 28, 2011, retires from or otherwise terminates active service with entitlement to a base pension under sections 86.900 to 86.1280 shall commence as of the first day of the month next following such retirement or termination with no proration of such pension for the month in which such retirement or termination occurs. The supplemental retirement benefits of a member who, after August 28, 2011, retires from or otherwise terminates active service with entitlement to a supplemental retirement benefit provided in subsection 1 of section 86.1230 shall commence as of the first day of the month next following such retirement or termination with no proration of such supplemental retirement benefit for the month in which such retirement or termination occurs.

3. Upon the death of a member who is receiving a base pension under sections 86.900 to 86.1280 leaving a surviving spouse, as defined in section 86.900, entitled to benefits, payment of the member's base pension including all cost-of-living adjustments thereto, prorated for that portion of the month of such death in which such member was living, shall be made to such surviving spouse, and the benefit for which such spouse is entitled under section 86.1240 shall be prorated and paid to such spouse for the remainder of such month.

4. Upon the death of a member who is receiving a base pension under sections 86.900 to 86.1280 leaving no surviving spouse, as defined in section 86.900, entitled to benefits, payment of the member's base pension including all cost-of-living adjustments thereto, prorated for that portion of the month of such death in which such member was living, shall be made in equal shares to or for the benefit of the children, if any, of such member as are entitled to share in spousal benefits as described in subsection 2 of section 86.1250. If no such children shall survive such member, such prorated benefit for the month of such member's death shall be paid to the beneficiary named by such member in a writing filed with the retirement system prior to the member's death for the purpose of receiving such benefit. If no beneficiary is named, then no payment shall be made of such prorated benefit for the month of such member's death.

5. Upon the death of a surviving spouse who is receiving a base pension under section 86.1240, payment of such spouse's base pension including all cost-of-living adjustments thereto, prorated for that portion of the month of such death in which such spouse was living, shall be made in equal shares to or for the benefit of the children, if any, of the member of whom such spouse is the surviving spouse as are entitled to share in spousal benefits described in subsection 2 of section 86.1250. If no such children shall survive such spouse, such prorated benefit for the month of such spouse's death shall be paid to the

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beneficiary named by such surviving spouse in a writing filed with the retirement system prior to such spouse's death for the purpose of receiving such benefit. If no beneficiary is named, then no payment shall be made of such prorated benefit for the month of such spouse's death.

6. Upon the death of a member who is receiving a supplemental benefit under section 86.1230 and who leaves a surviving spouse, as defined in section 86.900, entitled to benefits, the entire supplemental benefit for the month of such death shall be paid to such surviving spouse without proration, and the surviving spouse shall receive no additional supplemental benefit for such month.

7. Upon the death of a member who is receiving a supplemental benefit under section 86.1230 and who leaves no surviving spouse, as defined in section 86.900, entitled to benefits, or upon the death of a surviving spouse who is receiving a supplemental benefit under section 86.1230, such supplemental benefit shall terminate upon such death. No benefit shall be payable for any period after the most recent monthly payment of such benefit prior to such death.

8. Upon the death of a member in service who leaves a surviving spouse, as defined in section 86.900, entitled to benefits, the base pension of such surviving spouse shall commence as of the first day of the month next following such death with no proration of such pension for the month in which such death occurs.

9. Upon the death of a member in service who leaves no surviving spouse, as defined in section 86.900, entitled to benefits, any benefit payable to surviving children of such member under subsection 2 of section 86.1250 shall commence as of the first day of the month next following such death with no proration of such benefit for the month in which such death occurs. If there are no such surviving children entitled to such benefit, then such member's accumulated contributions shall be paid to the beneficiary named by such member in a writing filed with the retirement system prior to the member's death for the purpose of receiving such benefit, or if no beneficiary is named, then to such member's estate.

10. Upon the death of a member in service or after retirement, any benefit payable to the surviving children of such member under subsection 1 of section 86.1250 shall commence as of the first day of the month next following such death with no proration of such benefit for the month in which such death occurs.

11. All payments of any benefit shall be paid on the last business day of each month for that month. For any benefit under sections 86.900 to 86.1280, the retirement system shall withhold payment of such benefit until all requisite documentation has been filed with the retirement system evidencing the entitlement of payee to such payment.

12. If no benefits are otherwise payable to a surviving spouse or child of a deceased member or otherwise as provided in this section, the member's accumulated contributions, to any extent not fully paid to such member prior to the member's death or to the surviving spouse or child of such member or otherwise as provided in this section, shall be paid in one lump sum to the member's beneficiary named by such member in a writing filed with the retirement system prior to the member's death for the purpose of receiving such benefit, or if no beneficiary is named, then to such member's estate. Such payment shall constitute full and final payment of any and all claims for benefits under the retirement system.

**86.1100. CREDITABLE SERVICE, BOARD TO FIX AND DETERMINE BY RULE.** — 1. The retirement board shall fix and determine by proper rules and regulations how much service in any year is equivalent to one year of service. In no case shall more than one year of service be creditable for all service rendered in one calendar year. The retirement board shall not allow credit as service for any period [of more than thirty consecutive days] during which the member was

absent without compensation, except as provided in [subsection 3 of section] **sections 86.1110 and 86.1140.**

2. **Except as provided in subsection 3 of section 86.1110,** creditable service at retirement on which the retirement allowance of a member is based consists of the membership service rendered by such member since such member last became a member.

3. Creditable service also includes any prior service credit to which a member may be entitled by virtue of an authorized purchase of such credit or as otherwise provided in sections 86.900 to 86.1280.

4. Creditable service shall not include any time a member was suspended from service without compensation. No contribution is required from either the member under section 86.1010 or from the city under section 86.1000 for such time.

5. Any member who has completed thirty years of creditable service may continue in service by permission of the board of police commissioners. Contributions shall not be required of, and no service shall be credited to, any member for more than thirty years of service.

**86.1110. MILITARY LEAVE OF ABSENCE, EFFECT OF — SERVICE CREDIT FOR MILITARY SERVICE, WHEN.** — 1. Whenever a member is given a leave of absence for military service and returns to employment after discharge from the service, such member shall be entitled to creditable service for the years of employment prior to the leave of absence.

2. Except as provided in subsection 3 of this section, a member who served on active duty in the armed forces of the United States and who became a member, or returned to membership, after discharge under honorable conditions, may elect prior to retirement to purchase creditable service equivalent to such service in the armed forces, not to exceed two years, provided the member is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan for the service to be purchased, other than a United States military service retirement system or United States Social Security benefits attributable to such military service, and an affidavit so stating is filed by the member with the retirement system. A member electing to make such purchase shall pay to the retirement system an amount equal to the actuarial [value] **cost** of the additional benefits attributable to the additional service credit to be purchased, as of the date the member elects to make such purchase. [The retirement system shall determine such value using accepted actuarial methods and the same assumptions with respect to interest rates, mortality, future salary increases, and all related factors used in performing the most recent regular actuarial valuation of the retirement system.] Payment in full of the amount due from a member electing to purchase creditable service under this subsection shall be made over a period not to exceed five years, measured from the date of election, or prior to the commencement date for payment of benefits to the member from the retirement system, whichever is earlier, including interest on unpaid balances compounded annually at the interest rate assumed from time to time for actuarial valuations of the retirement system. If payment in full including interest is not made within the prescribed period, any partial payments made by the member shall be refunded, and no creditable service attributable to such election, or as a result of any such partial payments, shall be allowed; provided that if a benefit commencement date occurs because of the death or disability of a member who has made an election under this subsection and if the member is current in payments under an approved installment plan at the time of the death or disability, such election shall be valid if the member, the surviving spouse, or other person entitled to benefit payments pays the entire balance of the remaining amount due, including interest to the date of such payment, within sixty days after the member's death or disability. The time of a disability shall be deemed to be the time when such member is retired by the board of police commissioners for reason of disability as provided in sections 86.900 to 86.1280.

3. Notwithstanding any other provision of sections 86.900 to 86.1280, a member who is on leave of absence for military service during any portion of which leave the United States is in a state of declared war, or a compulsory draft is in effect for any of the military branches of the



United States, or any units of the military reserves of the United States, including the National Guard, are mobilized for combat military operations, and who becomes entitled to reemployment rights and other employment benefits under Title 38, Chapter 43 of the U.S. Code, relating to employment and reemployment rights of members of the uniformed services by meeting the requirements for such rights and benefits under Section 4312 of said chapter, or the corresponding provisions of any subsequent applicable [U.S.] **federal** statute, shall be entitled to service credit for the time spent in such military service for all purposes of sections 86.900 to 86.1280 and such member shall not be required to pay any member contributions for such time. If it becomes necessary for the years of such service to be included in the calculation of such member's compensation for any purpose, such member shall be deemed to have received the same compensation throughout such period of service as the member's base annual salary immediately prior to the commencement of such leave of absence.

**86.1120. TERMINATION OF MEMBERS AFTER FIVE OR MORE YEARS OF SERVICE, CREDIT TOWARDS RETIREMENT.** — Members who terminate membership with five years or more of creditable service and later return to membership may be given credit toward retirement for prior creditable service, subject to the condition that such member deposit in the pension fund a sum equal to the [accumulated contributions which had been paid to such member upon the prior termination. Such repayment of withdrawn contributions shall be accompanied by an additional payment of interest equal to the amount of the actual net yield earned or incurred by the pension fund, including both net income after expenses and net appreciation or depreciation in values of the fund, whether realized or unrealized, during the period of time from the date upon which such contributions had been withdrawn to the date of repayment thereof, determined in accordance with such rules for valuation and accounting as may be adopted by the retirement board for such purposes] **member's portion of the actuarial cost to restore such service. The member's portion of the actuarial cost is determined on the ratio of the member's contribution rate to the total of the member and employer contribution rates at the time the member elects to purchase the creditable service.**

**86.1140. LEAVE OF ABSENCE NOT TO ACT AS TERMINATION OF MEMBERSHIP — CREDITABLE SERVICE PERMITTED, WHEN.** — 1. Should any member be granted leave of absence by the board of police commissioners, such member shall not, because of such absence, cease to be a member.

2. If a member is on leave of absence by authority of the board of police commissioners for thirty consecutive days or less, **and returns from such leave prior to August 28, 2011**, such member shall receive creditable service for such time.

3. Except as provided in subsection 3 of section 86.1110, if a member is on leave of absence [for more than thirty consecutive days] without compensation, such member shall not receive service credits for such time unless such member shall[, within one year after returning from such absence, pay into the retirement system an amount equal to the member's contribution percentage at the time such absence began times an assumed salary figure for the period of such absence, computed by assuming that such member received a salary during such absence at the rate of the base annual salary the member was receiving immediately prior to such absence] **return to active service and purchase such creditable service at the actuarial cost. The actuarial cost shall be determined at the time the member makes such purchase.**

**86.1150. RETIREMENT AGE — BASE PENSION AMOUNT.** — 1. Any member may retire when such member has completed twenty-five or more years of creditable service and, except as otherwise provided in section 86.1100, shall retire when such member has completed thirty years of creditable service. Upon such retirement such member shall receive a base pension equal to:

(1) For a member retiring prior to August 28, 2000, two percent of such member's final compensation, as defined in section 86.900, multiplied by the number of years of such member's total creditable service; or

(2) For a member retiring on or after August 28, 2000, two and one-half percent of such member's final compensation, as defined in section 86.900, multiplied by the number of years of such member's total creditable service. Such pension shall not exceed seventy-five percent of the member's final compensation.

2. Every member not having thirty years of service must retire at sixty years of age except that on recommendation of the chief of police, the board of police commissioners may permit such member who is sixty years of age or over to remain in service until such member reaches the age of sixty-five years. Such member shall continue to make contributions and receive credit for service until reaching sixty-five years of age, until retirement, or until completion of thirty years of creditable service, whichever occurs first. If such member shall reach sixty-five years of age or shall retire prior to completion of twenty-five years of service, the base pension of such member shall be calculated under subsection 3 of this section.

3. Except as provided in section 86.1100 or in subsection 2 of this section, any member in service who shall have attained sixty years of age and at that time shall have completed at least ten but less than thirty years of creditable service shall retire and shall receive a base pension equal to:

(1) For a member retiring prior to August 28, 2000, two percent of such member's final compensation, as defined in section 86.900, multiplied by the number of years of such member's total creditable service; or

(2) For a member retiring on or after August 28, 2000, two and one-half percent of such member's final compensation as defined in section 86.900 multiplied by the number of years of such member's total creditable service.

4. Subject to the provisions of subsection 5 of this section, whenever the service of a member is terminated for any reason prior to death or retirement and the member has fifteen or more years of creditable service, the member may elect not to withdraw such member's accumulated contributions and shall become entitled to a base pension [beginning at] **commencing on the first day of the month following the attainment of** the age of fifty-five, if then living, equal to:

(1) For a member whose service so terminates prior to August 28, 2001, two percent of such member's final compensation multiplied by the number of years of such member's creditable service; or

(2) For a member whose service so terminates on or after August 28, 2001, two and one-half percent of such member's final compensation multiplied by the number of years of such member's creditable service.

5. Notwithstanding any other provisions of sections 86.900 to 86.1280, any member who is convicted of a felony prior to separation from active service shall not be entitled to any benefit from this retirement system except the return of such member's accumulated contributions.

**86.1230. SUPPLEMENTAL RETIREMENT BENEFITS, AMOUNT — MEMBER TO BE SPECIAL CONSULTANT, COMPENSATION.** — 1. Any member who retires subsequent to August 28, 1991, with entitlement to a pension under sections 86.900 to 86.1280, shall receive [each month], in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, a supplemental retirement benefit of fifty dollars per month. The amount of such supplemental retirement benefit may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually.

2. Any member who was retired on or before August 28, 1991, and is receiving retirement benefits from the retirement system shall, upon application to the retirement board, be retained as a consultant, and for such services such member shall receive [each month], in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1220, and in

addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, a supplemental compensation in the amount of fifty dollars per month. This appointment as a consultant shall in no way affect any member's eligibility for retirement benefits under the provisions of sections 86.900 to 86.1280, or in any way have the effect of reducing retirement benefits otherwise payable to such member. The amount of such supplemental compensation under this subsection may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually.

3. For purposes of subsections 1 and 2 of this section, the term "member" shall include a surviving spouse entitled to a benefit under sections 86.900 to 86.1280 who shall be deemed to have retired for purposes of this section on the date of retirement of the member of whom such person is the surviving spouse or on the date of death of such member if such member died prior to retirement; provided, that if the surviving spouse of any member who retired prior to August 28, 2000, shall not have remarried prior to August 28, 2000, but remarries thereafter, such surviving spouse shall thereafter receive benefits under subsection 2 of this section, and provided further, that no benefits shall be payable under this section to the surviving spouse of any member who retired prior to August 28, 2000, if such surviving spouse was at any time remarried after the member's death and prior to August 28, 2000. All benefits payable to a surviving spouse under this section shall be in addition to all other benefits to which such surviving spouse may be entitled under other provisions of sections 86.900 to 86.1280. Any such surviving spouse of a member who dies while entitled to payments under this section shall succeed to the full amount of payment under this section to which such member was entitled at the time of such member's death, including any cost-of-living adjustments received by such member in the payment under this section prior to such member's death. In all events, the term "member" shall not include any children of the member who would be entitled to receive part or all of the pension which would be received by a surviving spouse if living.

4. Any member who is receiving benefits from the retirement system and who either was retired under the provisions of subdivision (1) of subsection 1 of section 86.1150, or who retired before August 28, 2001, under the provisions of section 86.1180 or section 86.1200, shall, upon application to the retirement board, be retained as a consultant. For such services such member shall receive each month in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, an equalizing supplemental compensation of ten dollars per month. This appointment as a consultant shall in no way affect any member's eligibility for retirement benefits under the provisions of sections 86.900 to 86.1280, or in any way have the effect of reducing retirement benefits otherwise payable to such member. The amount of equalizing supplemental compensation under this subsection may be adjusted by cost-of-living adjustments, determined by the retirement board not more frequently than annually, but in no event shall the aggregate of such equalizing supplemental compensation together with all such cost-of-living adjustments thereto exceed twenty-five percent of the member's base pension. Each cost-of-living adjustment to compensation under this subsection shall be determined independently of any cost-of-living adjustment to any other benefit under sections 86.900 to 86.1280. For the purposes of this subsection, the term "member" shall include a surviving spouse entitled to benefits under the provisions of sections 86.900 to 86.1280, and who is the surviving spouse of a member who qualified, or would have qualified if living, for compensation under this subsection. Such surviving spouse shall, upon application to the retirement board, be retained as a consultant, and for such services shall be compensated in an amount equal to the compensation which would have been received by the member under this subsection, if living. Any such surviving spouse of a member who dies while entitled to payments under this subsection shall succeed to the full amount of payment under this subsection to which such member was entitled at the time of such member's death, including any cost-of-living adjustments received by such member in the payment under this subsection prior to such member's death. In all events, the term "member" shall not include any

children of the member who would be entitled to receive part or all of the pension that would be received by a surviving spouse, if living.

5. A surviving spouse who is entitled to benefits under the provisions of subsection 1 of section 86.1240 as a result of the death prior to August 28, 2007, of a member in service, and who is receiving benefits from the retirement system, shall, upon application to the retirement board, be retained as a consultant, and for such services such surviving spouse shall receive each month an equalizing supplemental compensation of ten dollars per month. A surviving spouse entitled to benefits under the provisions of subsection 1 of section 86.1240 as a result of the death of a member in service on or after August 28, 2007, shall receive each month an equalizing supplemental benefit of ten dollars per month. All benefits payable to a surviving spouse under this subsection shall be in addition to all other benefits to which such surviving spouse may be entitled under other provisions of sections 86.900 to 86.1280 and shall in no way have the effect of reducing benefits otherwise payable to such surviving spouse. The amount of equalizing supplemental benefit or equalizing supplemental compensation under this subsection may be adjusted by cost-of-living adjustments, determined by the retirement board not more frequently than annually, but in no event shall the aggregate of such equalizing supplemental benefit or compensation together with all such cost-of-living adjustments thereto exceed twenty-five percent of the base pension of the surviving spouse. Each cost-of-living adjustment to an equalizing supplemental benefit or compensation under this subsection shall be determined independently of any cost-of-living adjustment to any other benefit under sections 86.900 to 86.1280. In all events the term "surviving spouse" as used in this subsection shall not include any children of the member who would be entitled to receive part or all of the pension that would be received by a surviving spouse, if living.

6. In determining and granting the cost-of-living adjustments under this section, the retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section, including provisions for the manner of computation of such adjustments and the effective dates thereof. The retirement board shall provide for such adjustments to be determined once each year and granted on a date or dates to be chosen by the board. The retirement board shall not be required to prorate the initial adjustment to any benefit or compensation under this section for any member.

7. The determination of whether the retirement system will remain actuarially sound shall be made at the time any cost-of-living adjustment under this section is granted. If at any time the retirement system ceases to be actuarially sound, any benefit or compensation payments provided under this section shall continue as adjusted by increases or decreases theretofore granted. A member of the retirement board shall have no personal liability for granting increases under this section if that retirement board member in good faith relied and acted upon advice of a qualified actuary that the retirement system would remain actuarially sound.

**86.1240. PENSIONS OF SPOUSES OF DECEASED MEMBERS — SURVIVING SPOUSE TO BE APPOINTED AS CONSULTANT TO BOARD, WHEN.** — 1. Upon receipt of the proper proofs of death of a member in service for any reason whatsoever, there shall be paid to such member's surviving spouse, if any, in addition to all other benefits but subject to subsection [7] 6 of this section, a base pension equal to forty percent of the final compensation of such member, subject to adjustments, if any, as provided in section 86.1220.

2. (1) Upon receipt of the proper proofs of death of a member who was retired or terminated service after August 28, 1999, and died after [commencement of benefits to such member] **having become entitled to benefits** from this retirement system, there shall be paid to such member's surviving spouse, if any, in addition to all other benefits but subject to subsection [7] 6 of this section, a base pension equal to eighty percent of the pension being received by such member, including cost-of-living adjustments to such pension but excluding supplemental retirement benefits, at the time of such member's death, subject to subsequent adjustments, if any, as provided in section

86.1220. The pension provided by this subdivision shall terminate upon remarriage by the surviving spouse prior to August 28, 2000.

(2) (a) Upon receipt of the proper proof of death of a member who retired or terminated service on or before August 28, 1999, and who died after August 28, 1999, and after [commencement of benefits to such member] **having become entitled to benefits** from this retirement system, such member's surviving spouse, if any, shall be entitled to a base pension equal to forty percent of the final compensation of such member.

(b) Such a surviving spouse shall, upon application to the retirement board, be appointed by the retirement board as a consultant and be compensated in an amount equal to the benefits such spouse would receive under subdivision (1) of this subsection if the member had retired or terminated service after August 28, 1999.

(c) The benefits provided by this subdivision shall terminate upon remarriage by the surviving spouse prior to August 28, 2000.

3. In the case of any member who, prior to August 28, 2000, died in service or retired, the surviving spouse who would qualify for benefits under subsection 1 or 2 of this section but for remarriage, and who has not remarried prior to August 28, 2000, but remarries thereafter, shall upon application be appointed by the retirement board as a consultant. For services as such consultant, such surviving spouse shall be compensated in an amount equal to the benefits such spouse would have received under sections 86.900 to 86.1280 in the absence of such remarriage.

4. [For purposes of this section, commencement of benefits shall begin, for any benefit, at such time as all requirements of sections 86.900 to 86.1280 have been met entitling the member to a payment of such benefit at the next following payment date with the amount thereof established, regardless of whether the member has received the initial payment of such benefit.

5.] Upon the death of any member who is in service after August 28, 2000, and who either had at least twenty-five years of creditable service or was retired or died as a result of an injury or illness occurring in the line of duty or course of employment under section 86.1180, the surviving spouse's benefit provided under this section, without including any supplemental retirement benefits paid such surviving spouse by this retirement system, shall be six hundred dollars per month. For any member who died, retired or terminated service on or before August 28, 2000, and who either had at least twenty-five years of creditable service or was retired or died as a result of an injury or illness occurring in the line of duty or course of employment under section 86.1180, the surviving spouse shall upon application to the retirement board be appointed by the retirement board as a consultant. For services as such consultant, the surviving spouse shall, beginning the later of August 28, 2000, or the time the appointment is made under this subsection, be compensated in an amount which without including supplemental retirement benefits provided by this system shall be six hundred dollars monthly. A pension benefit under this subsection shall be paid in lieu of any base pension as increased by cost-of-living adjustments granted under section 86.1220. The benefit under this subsection shall not be subject to cost-of-living adjustments, but shall be terminated and replaced by the base pension and cost-of-living adjustments to which such spouse would otherwise be entitled at such time as the total base pension and such adjustments exceed six hundred dollars monthly.

[6.] 5. A surviving spouse who is entitled to benefits under the provisions of subsection 1 of this section as a result of the death on or before August 28, 2009, of a member in service who is receiving benefits under sections 86.900 to 86.1280 and who does not qualify under the provisions of subsection [5] 4 of this section shall, upon application to the retirement board, be appointed as a consultant, and for such services such surviving spouse shall be compensated in an amount which, without including any supplemental retirement benefits provided by sections 86.900 to 86.1280, shall be six hundred dollars monthly. A pension benefit under this subsection shall be paid in lieu of any base pension as increased by cost-of-living adjustments granted under section 86.1220. The benefit under this subsection shall not be subject to cost-of-living adjustments, but shall be terminated and replaced by the base pension and cost-of-living

adjustments to which such surviving spouse would otherwise be entitled at such time as the total base pension and such adjustments exceed six hundred dollars monthly. As used in this subsection, "surviving spouse" shall not include any children of the member who would be entitled to receive part or all of the pension that would be received by a surviving spouse, if living.

[7.] 6. Any beneficiary of benefits under sections 86.900 to 86.1280 who becomes the surviving spouse of more than one member shall be paid all benefits due a surviving spouse of that member whose entitlements produce the largest surviving spouse benefits for such beneficiary but shall not be paid surviving spouse benefits as the surviving spouse of more than one member.

**86.1250. PENSIONS OF CHILDREN OF DECEASED MEMBERS.** — 1. (1) Upon the death of a member in service or after retirement [and commencement of benefits], such member's child or children under the age of eighteen years at the time of the member's death shall be paid fifty dollars per month each until he or she shall attain the age of eighteen years; however, each such child who is or becomes a full-time student at an accredited educational institution shall continue to receive payments under this section for so long as such child shall remain such a full-time student or shall be in a summer or other vacation period scheduled by the institution with intent by such child, demonstrated to the satisfaction of the retirement board, to return to such full-time student status upon the resumption of the institution's classes following such vacation period, but in no event shall such payments be continued after such child shall attain the age of twenty-one years except as hereinafter provided.

(2) Any child eighteen years of age or older, who is physically or mentally incapacitated from wage earning, so long as such incapacity exists as certified by a member of the medical board, shall be entitled to the same benefits as a child under the age of eighteen. For purposes of this section, a determination of whether a child of a member is physically or mentally incapacitated from wage earning so that the child is entitled to benefits under this section shall be made at the time of the member's death. If a child becomes incapacitated after the member's death, or if a child's incapacity existing at the member's death is removed and such child later becomes incapacitated again, such child shall not be entitled to benefits as an incapacitated child under the provisions of this section. A child shall be deemed incapacitated only for so long as the incapacity existing at the time of the member's death continues.

(3) Notwithstanding any other law to the contrary, amounts payable under subdivision (1) or (2) of this subsection shall not be subject to offset or reduction by amounts paid or payable under any workers' compensation or similar law.

2. Upon or after the death of a member in service or after retirement [and commencement of] **with entitlement to** benefits, if there is no surviving spouse or if a surviving spouse dies, the total amount, including any amounts receivable as consulting compensation, but not including any supplemental benefits under section 86.1230, which would be received by a qualified surviving spouse or which is being received by the surviving spouse at the date of death of such surviving spouse shall be added to the amounts received by and shall be divided among the children of such member under the age of eighteen years and the incapacitated children in equal shares. As each such child attains the age of eighteen years or has such incapacity removed, such total amount shall then be divided among the remaining such children, until there is no remaining child of such member under the age of eighteen years or incapacitated, at which time all benefits for children of such member under this subsection shall cease.

3. Upon the death of a member in service or after retirement [and commencement of benefits], a funeral benefit of one thousand dollars shall be paid to the person or entity who provided or paid for the funeral services for such member.

[4. If no benefits are otherwise payable to a surviving spouse or child of a deceased member, the member's accumulated contributions, to any extent not fully paid to such member prior to the member's death or to the surviving spouse or child of such member, shall be paid in one lump sum

to the member's named beneficiary or, if none, to the member's estate, and such payment shall constitute full and final payment of any and all claims for benefits under the retirement system.

5. For purposes of this section, commencement of benefits shall begin, for any benefit, at such time as all requirements of sections 86.900 to 86.1280 have been met entitling the member to a payment of such benefit at the next following payment date with the amount established, regardless of whether the member has received the initial payment of such benefit.]

**86.1310. DEFINITIONS.** — The following words and phrases as used in sections 86.1310 to 86.1640 shall have the following meanings unless a different meaning is plainly required by the context:

(1) "Accumulated contributions", the sum of all amounts deducted from the compensation of a member and paid to the retirement board, together with all amounts paid to the retirement board by a member or by a member's beneficiary for the purchase of prior service credits or any other purpose permitted under sections 86.1310 to 86.1640, in all cases with interest, **if any**, thereon at a rate determined from time to time for such purpose by the retirement board;

(2) "Actuarial cost", **the present value of a future payment or series of payments as calculated by applying the actuarial assumptions established according to subsection 8 of section 86.1630;**

(3) "Beneficiary", any person entitled, either currently or conditionally, to receive pension or other benefits provided in sections 86.1310 to 86.1640;

[(3)] (4) "Board of police commissioners", the board composed of police commissioners authorized by law to employ and manage an organized police force in the cities;

[(4)] (5) "City" or "cities", any city which now has or may hereafter have a population of more than three hundred thousand and less than seven hundred thousand inhabitants, or any city that has made an election under section 86.1320 to continue a civilian employees' retirement system theretofore maintained under sections 86.1310 to 86.1640;

[(5)] (6) "Compensation", the basic wage or salary paid a member for any period, excluding bonuses, overtime pay, expense allowances, and other extraordinary compensation; except that, notwithstanding such provision, compensation for any year for any member shall not exceed the amount permitted to be taken into account under Section 401(a)(17) of the Internal Revenue Code as applicable to such year;

[(6)] (7) "Consultant", unless otherwise specifically defined, means a person retained by the retirement system as a special consultant on the problems of retirement, aging and related matters who, upon request of the retirement board, shall give opinions and be available to give opinions in writing or orally in response to such requests, as may be needed by the board;

[(7)] (8) "Creditable service", service qualifying as a determinant of a member's pension or other benefit under sections 86.1310 to 86.1640 by meeting the requirements specified in such sections, or section 105.691;

[(8)] (9) "Employee", any regularly appointed civilian employee of the police department of the city as specified in sections 86.1310 to 86.1640 who is:

(a) **Appointed prior to August 28, 2011, and is not eligible to receive a pension from the police retirement system of said city;**

(b) **Appointed on or after August 28, 2011, and is not eligible to receive a pension from the police retirement system of such city or from any other retirement or pension system of such city;**

[(9)] (10) "Final compensation", the average annual compensation of a member during the member's service if less than two years, or the twenty-four months of service for which the member received the highest salary whether consecutive or otherwise. For any period of time when a member is paid on a frequency other than monthly, the member's salary for such period

shall be deemed to be the monthly equivalent of the member's annual rate of compensation for such period;

[(10)] (11) "Internal Revenue Code", the United States Internal Revenue Code of 1986, as amended;

[(11)] (12) "Medical board", not less than one nor more than three physicians appointed by the retirement board to arrange for and conduct medical examinations as directed by the retirement board;

[(12)] (13) "Member", a member of the civilian employees' retirement system as described in section 86.1480;

[(13)] (14) "Pension", annual payments for life, payable monthly, [beginning with the date of retirement or other applicable commencement date and ending with death] **at the times described in section 86.1420;**

[(14)] (15) "Pension fund", the fund resulting from contributions made thereto by the cities affected by sections 86.1310 to 86.1640 and by the members of the civilian employees' retirement system;

[(15)] (16) "Retirement", termination of a member's status as an employee of the police department of the city at a time when the member or the member's beneficiary is immediately entitled to one or more benefits under sections 86.1310 to 86.1640;

[(16)] (17) "Retirement board" or "board", the board provided in section 86.1330 to administer the retirement system;

[(17)] (18) "Retirement system", the civilian employees' retirement system of the police department of the cities as defined in section 86.1320;

[(18)] (19) "Surviving spouse", when determining whether a person is entitled to benefits under sections 86.1310 to 86.1640 by reason of surviving a member, shall include only:

(a) The person who was married to the member at the time of the member's death in service prior to August 28, 2001, and who had not remarried prior to August 28, 2001;

(b) The person who was married to the member at the time of the member's death in service on or after August 28, 2001;

(c) In the case of any member who both retired and died prior to August 28, 2001, the person who was married to the member at the time of the member's death and who had not remarried prior to August 28, 2001;

(d) In the case of any member who retired prior to August 28, 2001, and died on or after that date, the person who was married to the member at the time of the member's death; or

(e) In the case of any member who retired on or after August 28, 2001, the person who was married to the member at both the time of the member's retirement and the time of the member's death.

**86.1420. BENEFITS AND ADMINISTRATIVE EXPENSES TO BE PAID BY SYSTEM FUNDS — COMMENCEMENT OF BASE PENSION, WHEN — DEATH OF MEMBER, EFFECT OF. — 1.** All benefits and all necessary administrative expenses of the retirement system shall be paid from the funds of the retirement system.

**2.** The base pension of a member who, after August 28, 2011, retires from or otherwise terminates active service with entitlement to a base pension under sections 86.1310 to 86.1640 shall commence as of the first day of the month next following such retirement or termination with no proration of such pension for the month in which such retirement or termination occurs. The supplemental retirement benefit of a member who, after August 28, 2011, retires from or otherwise terminates active service with entitlement to a supplemental retirement benefit provided in subsection 1 of section 86.1600 shall commence as of the first day of the month next following such retirement or termination



with no proration of such supplemental retirement benefit for the month in which such retirement or termination occurs.

3. Upon the death of a member in service who leaves a surviving spouse, as defined in section 86.1310, entitled to benefits, any base pension which such surviving spouse shall elect under subdivision (2) of subsection 1 of section 86.1610 or under paragraph (b) of subdivision (3) of subsection 1 of section 86.1610 shall commence the later of the first day of the month next following such death or the first day of the month following the date which would have been the member's earliest possible retirement date permitted under subsection 2 of section 86.1540 with no proration of such pension for the month prior to such commencement date. Any base pension which such surviving spouse shall elect under paragraph (c) of subdivision (3) of subsection 1 of section 86.1610 shall commence the first day of the month next following such death with no proration of such pension for the month prior to such commencement date.

4. Upon the death of a member who is receiving a base pension under sections 86.1310 to 86.1640 leaving a surviving spouse, as defined in section 86.1310, entitled to benefits, the pension of such surviving spouse shall commence on the first day of the month next following such death with no proration for the month in which such death occurs.

5. All payments of any benefit shall be paid on the first business day of each month for that month. For any benefit under sections 86.1310 to 86.1640, the retirement system shall withhold payment of such benefit until all requisite documentation has been filed with the retirement system evidencing the entitlement of the payee to such payment. The final payment due to a retired member shall be the payment due on the first day of the month in which such member's death occurs. The final payment due to any surviving spouse shall be the payment due on the first day of the month in which such surviving spouse dies or otherwise ceases to be entitled to benefits under sections 86.1310 to 86.1640.

6. If no benefits are otherwise payable to a surviving spouse of a deceased member or otherwise as provided in this section, the member's accumulated contributions, to any extent not fully paid to such member prior to the member's death or to the surviving spouse of such member or otherwise as provided in this section, shall be paid in one lump sum to the member's beneficiary named by such member in a writing filed with the retirement system prior to the member's death for the purpose of receiving such benefit, and if no beneficiary is named, then to such member's estate. Such payment shall constitute full and final payment of any and all claims for benefits under the retirement system, except as provided in section 86.1620.

**86.1480. WHO SHALL BE MEMBERS.** — 1. Every person who becomes an employee, as defined in subdivision [(8)] (9) of section 86.1310, after August 28, 2001, shall become a member of the retirement system defined in sections 86.1310 to 86.1640 as a condition of such employment.

2. Every person who was a member of the retirement system on or before August 28, 2001, shall remain a member.

3. Every person who was an employee, as defined in subdivision [(8)] (9) of section 86.1310, on August 28, 2001, but was not a member, shall become a member as a condition of employment upon the completion of six months' continuous employment.

**86.1490. CREDITABLE SERVICE, DETERMINATION OF — INCLUSIONS AND EXCLUSIONS.** — 1. The retirement board shall fix and determine by proper rules and regulations how much service in any year is equivalent to one year of service. In no case shall more than one year of service be creditable for all service rendered in one calendar year. The retirement board shall not allow credit as service for any period during which the member

**was absent without compensation, except as provided in subsection 3 of this section and subsection 3 of section 86.1500.**

2. Except as provided in subsection 3 of section 86.1500, creditable service at retirement on which the retirement allowance of a member is based consists of the membership service rendered by such member [for which such member received compensation] since such member last became a member.

**3. Except as provided in subsection 3 of section 86.1500, if a member is on leave of absence without compensation, such member shall not receive service credits for such time unless such member shall return to active service and purchase such creditable service at the actuarial cost. The actuarial cost shall be determined at the time the member makes such purchase.**

[2.] 4. Creditable service also includes any prior service credit to which a member may be entitled by virtue of an authorized purchase of such credit or as otherwise provided in sections 86.1310 to 86.1640.

[3.] 5. Creditable service shall not include any time a member was suspended from service without compensation. No contribution is required from either the member under section 86.1400 or from the city under section 86.1390 for such time.

**86.1500. MILITARY SERVICE, EFFECT ON CREDITABLE SERVICE — ELECTION TO PURCHASE CREDITABLE SERVICE, WHEN — SERVICE CREDIT FOR MILITARY SERVICE, WHEN.**

— 1. Whenever a member is given a leave of absence for military service and returns to employment after discharge from the service, such member shall be entitled to creditable service for the years of employment prior to the leave of absence.

2. Except as provided in subsection 3 of this section, a member who served on active duty in the armed forces of the United States and who became a member, or returned to membership, after discharge under honorable conditions, may elect prior to retirement to purchase creditable service equivalent to such service in the armed forces, not to exceed two years, provided the member is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan for the service to be purchased, other than a United States military service retirement system or United States Social Security benefits attributable to such military service, and an affidavit so stating is filed by the member with the retirement system. A member electing to make such purchase shall pay to the retirement system an amount equal to the actuarial [value] **cost** of the additional benefits attributable to the additional service credit to be purchased, as of the date the member elects to make such purchase. [The retirement system shall determine such value using accepted actuarial methods and the same assumptions with respect to interest rates, mortality, future salary increases, and all related factors used in performing the most recent regular actuarial valuation of the retirement system.] Payment in full of the amount due from a member electing to purchase creditable service under this subsection shall be made over a period not to exceed five years, measured from the date of election, or prior to the commencement date for payment of benefits to the member from the retirement system, whichever is earlier, including interest on unpaid balances compounded annually at the interest rate assumed from time to time for actuarial valuations of the retirement system. If payment in full including interest is not made within the prescribed period, any partial payments made by the member shall be refunded, and no creditable service attributable to such election, or as a result of any such partial payments, shall be allowed; provided that if a benefit commencement date occurs because of the death or disability of a member who has made an election under this subsection and if the member is current in payments under an approved installment plan at the time of the death or disability, such election shall be valid if the member, the surviving spouse or other person entitled to benefit payments pays the entire balance of the remaining amount due, including interest to the date of such payment, within sixty days after the member's death or disability. The time of a disability shall be deemed to be the time when such

member is determined by the retirement board to be totally and permanently disabled as provided in section 86.1560.

3. Notwithstanding any other provision of sections 86.1310 to 86.1640, a member who is on leave of absence for military service during any portion of which leave the United States is in a state of declared war, or a compulsory draft is in effect for any of the military branches of the United States, or any units of the military reserves of the United States, including the National Guard, are mobilized for combat military operations, and who becomes entitled to reemployment rights and other employment benefits under Title 38, Chapter 43 of the U.S. Code, relating to employment and reemployment rights of members of the uniformed services by meeting the requirements for such rights and benefits under Section 4312 of said chapter, or the corresponding provisions of any subsequent applicable [U.S.] **federal** statute, shall be entitled to service credit for the time spent in such military service for all purposes of sections 86.1310 to 86.1640 and such member shall not be required to pay any member contributions for such time. If it becomes necessary for the years of such service to be included in the calculation of such member's compensation for any purpose, such member shall be deemed to have received the same compensation throughout such period of service as the member's base annual salary immediately prior to the commencement of such leave of absence.

**86.1510. MEMBERS ENTITLED TO PRIOR CREDITABLE SERVICE, WHEN.** — Members who terminate membership with three years or more of creditable service and later return to membership may be given credit toward retirement for prior creditable service, subject to the condition that such member deposit in the pension fund a sum equal to the [accumulated contributions which had been paid to such member upon the prior termination. Such repayment of withdrawn contributions shall be accompanied by an additional payment of interest equal to the amount of the actual net yield earned or incurred by the pension fund, including both net income after expenses and net appreciation or depreciation in values of the fund, whether realized or unrealized, during the period of time from the date upon which such contributions had been withdrawn to the date of repayment thereof, determined in accordance with such rules for valuation and accounting as may be adopted by the retirement board for such purposes] **member's portion of the actuarial cost to restore such service. The member's portion of the actuarial cost is determined on the ratio of the member's contribution rate to the total of the member and employer contribution rates at the time the member elects to purchase the creditable service.**

**86.1540. NORMAL PENSION, AMOUNT — EARLY RETIREMENT OPTION, WHEN — ELECTION FOR OPTIONAL BENEFIT FOR SPOUSE — PENSION AFTER FIVE YEARS OF CREDITABLE SERVICE — FELONY CONVICTION, EFFECT OF.** — 1. (1) Upon retirement on or after a member's normal retirement date, such member shall receive a base pension in the amount of two percent of such member's final compensation times the number of years, including fractions thereof, of such member's creditable service.

(2) Such member may elect to receive a different base pension under an election permitted under this section or section 86.1580.

2. Members may elect early retirement as follows:

(1) Beginning at age fifty-five, if the member has completed at least ten years of creditable service or at any later age after the member has completed at least ten years of creditable service. Unless subdivision (3) of this subsection shall be applicable, the benefit as computed under subsection 1 of this section shall be reduced by one-half of one percent for each **full** month the [effective date] **initial payment** is prior to the first day of the month following that in which such member will attain age sixty;

(2) Beginning at age sixty, if the member has completed at least five but not more than ten years of creditable service or at any later age after the member has completed at least five years of creditable service. Unless subdivision (3) of this subsection shall be applicable, the benefit as computed under subsection 1 of this section shall be reduced by one-half of one percent for each full month the [effective date] **initial payment** is prior to the first day of the month following that in which such member will attain age sixty-five; or

(3) At any time after the member's total of age and years of creditable service equals or exceeds eighty, in which event the benefit shall be as computed under subsection 1 of this section without any reduction. If an election for early retirement results in a reduced benefit under subdivision (1) or (2) of this subsection, such reduced benefit shall become the member's base pension, subject to all other adjustments described in this section.

3. (1) A member who is married at the time of retirement may by a written election, with the written consent of such member's spouse, elect an optional benefit calculated as follows: such optional benefit shall be a monthly pension in the initial amount which shall be actuarially equivalent to the actuarial value of the pension described in subdivision (1) of subsection 1 of this section for such member at the date of retirement (including the value of survivorship rights of a surviving spouse, where applicable, under section 86.1610), upon the basis that the initial annuity for the member's spouse, if such spouse survives the member, shall be the same as the amount being paid the member on such annuity at the member's death, and, subject to cost-of-living adjustments thereafter declared on the spouse's base pension under section 86.1590, shall be paid to such surviving spouse for the lifetime of such spouse without regard to remarriage. If a member who makes an election of an optional benefit under this subsection has also elected an early retirement under either subdivision (1) or (2) of subsection 2 of this section, any reduction in benefit required for such early retirement election shall be calculated before calculating the initial amount of the optional benefit under this subsection.

(2) If a member who makes the election permitted by this subsection also makes an election permitted under section 86.1580, such optional benefit shall be reduced as provided in subdivision (3) of subsection 2 of section 86.1580.

(3) If a member makes the election permitted by this subsection, the amount calculated for such optional benefit under either subdivision (1) or (2) of this subsection shall be the base pension for such member and for such member's spouse for all purposes of sections 86.1310 to 86.1640.

(4) An election for an optional benefit under this subsection shall be void if the member dies within thirty days after filing such election with the retirement system or if the member dies before the due date of the first payment of such member's pension.

4. Subject to the provisions of subsection [7] **6** of this section, whenever the service of a member is terminated after August 28, 1999, for any reason prior to death or retirement and the member has five or more years of creditable service, the member may elect not to withdraw such member's accumulated contributions and shall become entitled to receive a pension upon such member's normal retirement date under subdivision (1) of subsection 1 of this section or may elect to receive a pension commencing upon or after any date, prior to his or her normal retirement date, upon which early retirement would have been permitted under subsection 2 of this section if such member had remained a civilian employee of such police department, except that in calculating any qualification under subsection 2 of this section, such member shall not be entitled to count any year of creditable service in excess of such member's total years of creditable service at the time of such member's termination of employment. The amount of any pension commenced upon the basis of a date permitted under subsection 2 of this section shall be computed on the basis of the member's final compensation and number of years of creditable service, subject to such adjustments as may be applicable under the subdivision of subsection 2 of this section upon which such member relies in electing [the commencement of] such member's pension and subject to any other adjustments that such member may elect under this section. The amount of the initial pension calculated after all applicable adjustments shall be the base pension for such member, and for such member's spouse

if such member shall elect the optional benefit permitted under subsection 3 of this section, for all purposes of sections 86.1310 to 86.1640. **Payment of any benefits elected under this subsection shall commence as of the first day of the month next following the applicable date with no proration of such benefit for any initial partial month.**

5. A member whose service was terminated on or before August 28, 1999, after five or more years of creditable service, and who permitted such member's accumulated contributions to remain in the pension fund, shall upon application to the retirement board be appointed as a consultant. For services as such consultant, such member shall, beginning the later of August 28, 1999, or the time of such appointment under this subsection, be entitled to elect to receive compensation in such amount and [commencing] at such time as such member would have been entitled to elect under any of the provisions of subsection 4 of this section if such member had terminated service after August 28, 1999. Such member shall be entitled to the same cost-of-living adjustments following the commencement of such compensation as if such member's compensation had been a base pension.

6. [All payments of any pension shall be paid on the first day of each month for that month. The first payment shall be paid on the first day of the first month in which the member's benefit can be determined and processed for payment, and shall include benefits from the date of retirement to the date of such first payment. The final payment due a retired member shall be the payment due on the first day of the month in which such member's death occurs.

7.] Notwithstanding any other provisions of sections 86.1310 to 86.1640, any member who is convicted of a felony prior to separation from active service shall not be entitled to any benefit from this retirement system except the return of such member's accumulated contributions.

**86.1560. DISABILITY RETIREMENT PENSION, AMOUNT — DEFINITIONS — BOARD TO DETERMINE DISABILITY, PROOF MAY BE REQUIRED.** — 1. A member in active service who becomes totally and permanently disabled, as defined in this section, shall be entitled to retire and to receive a base pension determined in accordance with the terms of this section. Members who are eligible and totally and permanently disabled shall receive a disability pension computed as follows:

- (1) Duty disability, fifty percent of final compensation as of the date of disability;
- (2) Nonduty disability, thirty percent of final compensation as of the date of disability, provided that a nonduty disability pension shall not be available to any member with less than ten years creditable service;
- (3) In no event shall the disability pension be less than the amount to which the member would be entitled as a pension if the member retired on the same date with equivalent age and creditable service.

2. [The final payment due a member receiving a disability pension shall be the payment due on the first day of the month in which such member's death occurs. Such member's surviving spouse, if any, shall be entitled to such benefits as may be provided under section 86.1610.

3.] For purposes of sections 86.1310 to 86.1640, the following terms shall mean:

- (1) "Duty disability", total and permanent disability directly due to and caused by actual performance of employment with the police department;
- (2) "Nonduty disability", total and permanent disability arising from any other cause than duty disability;
- (3) "Total and permanent disability", a state or condition which presumably prevents for the rest of a member's life the member's engaging in any occupation or performing any work for remuneration or profit. Such disability, whether duty or nonduty, must not have been caused by the member's own negligence or willful self-infliction.

[4.] 3. The retirement board in its sole judgment shall determine whether the status of total and permanent disability exists. Its determination shall be binding and conclusive. The retirement

board shall rely upon the findings of a medical board of three physicians, and shall procure the written recommendation of at least one member thereof in each case considered by the retirement board. The medical board shall be appointed by the retirement board and expense for such examinations as are required shall be paid from funds of the retirement system.

[5.] 4. From time to time, the retirement board shall have the right to require proof of continuing disability which may include further examination by the medical board. Should the retirement board determine that disability no longer exists, it shall terminate the disability pension. A member who immediately returns to work with the police department shall again earn creditable service beginning on the first day of such return. Creditable service prior to disability retirement shall be reinstated. A member who does not return to work with the police department shall be deemed to have terminated employment at the time disability retirement commenced; but in calculating any benefits due upon such presumption, the retirement system shall receive credit for all amounts paid such member during the period of disability, except that such member shall not be obligated in any event to repay to the retirement system any amounts properly paid during such period of disability.

**86.1600. SUPPLEMENTAL RETIREMENT BENEFIT, AMOUNT, COST-OF-LIVING ADJUSTMENTS — SPECIAL CONSULTANT, COMPENSATION — COST-OF-LIVING ADJUSTMENTS, RULEMAKING AUTHORITY — MEMBER DEFINED.** — 1. Any member who retires subsequent to August 28, 1997, and on or before August 28, 2007, with entitlement to a pension under sections 86.1310 to 86.1640, and any member who retires subsequent to August 28, 2007, with entitlement to a pension under sections 86.1310 to 86.1640 and who either has at least fifteen years of creditable service or is retired under subsection 1 of section 86.1560, shall receive [each month], in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1590, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.1310 to 86.1640, a supplemental retirement benefit of fifty dollars per month. The amount of such supplemental retirement benefit may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually.

2. Any member who was retired on or before August 28, 1997, and is receiving retirement benefits from the retirement system shall, upon application to the retirement board, be retained as a consultant, and for such services such member shall receive [each month], in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1590, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.1310 to 86.1640, a supplemental compensation in the amount of fifty dollars per month. This appointment as a consultant shall in no way affect any member's eligibility for retirement benefits under the provisions of sections 86.1310 to 86.1640, or in any way have the effect of reducing retirement benefits otherwise payable to such member. The amount of such supplemental compensation under this subsection may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually.

3. In determining and granting the cost-of-living adjustments under this section, the retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section, including provisions for the manner of computation of such adjustments and the effective dates thereof. The retirement board shall provide for such adjustments to be determined once each year and granted on a date or dates to be chosen by the board. The retirement board shall not be required to prorate the initial adjustment to any supplemental retirement benefit or any supplemental compensation under this section for any member.

4. For purposes of subsections 1 and 2 of this section, the term "member" shall include a surviving spouse who is entitled to a benefit under sections 86.1310 to 86.1640, who shall be deemed to have retired for purposes of this section on the date of retirement of the member of whom such person is the surviving spouse or on the date of death of such member if such member died prior to retirement; provided, that no benefits shall be payable under this section to the

surviving spouse of any member who died while in active service after August 28, 2007, unless such death occurred in the line of duty or course of employment or as the result of an injury or illness incurred in the line of duty or course of employment or unless such member had at least fifteen years of creditable service. The surviving spouse of a member who died in service after August 28, 2007, whose death occurred in the line of duty or course of employment or as the result of an injury or illness incurred in the line of duty or course of employment shall be entitled to benefits under subsection 1 of this section without regard to such member's years of creditable service. All benefits payable to a surviving spouse under this section shall be in addition to all other benefits to which such surviving spouse may be entitled under other provisions of sections 86.1310 to 86.1640. Any qualifying surviving spouse of a member who dies while entitled to payments under this section shall succeed to the full amount of payment under this section to which such member was entitled at the time of such member's death, including any cost-of-living adjustments received by such member in the payment under this section prior to such member's death.

5. The determination of whether the retirement system will remain actuarially sound shall be made at the time any cost-of-living adjustment under this section is granted. If at any time the retirement system ceases to be actuarially sound, supplemental retirement benefit payments under subsection 1 of this section and supplemental compensation payments as a consultant under subsection 2 of this section shall continue as adjusted by increases or decreases theretofore granted. A member of the retirement board shall have no personal liability for granting increases under this section if that retirement board member in good faith relied and acted upon advice of a qualified actuary that the retirement system would remain actuarially sound.

**86.1610. DEATH OF MEMBER IN SERVICE, BENEFIT TO BE RECEIVED — DEATH OF MEMBER AFTER RETIREMENT, BENEFIT TO BE RECEIVED — SURVIVING SPOUSE BENEFITS. —**

1. Upon receipt of the proper proofs of death of a member in service for any reason whatsoever, the following amounts shall be payable subject to subsection 4 of this section, and if a pension shall be elected, the initial amount thereof shall be the base pension for such surviving spouse:

(1) If the member has less than five years of creditable service, the member's surviving spouse shall be paid, in one lump sum, the amount of the member's accumulated contributions. If there is no surviving spouse, the member's accumulated contributions shall be paid [to the member's designated beneficiary, or if none, to the executor or administrator of the member's estate, and such payment shall be full and final settlement for all amounts due from the retirement system with respect to such member except as provided in subsection 1 of section 86.1620] **as provided in subsection 6 of section 86.1420;**

(2) If the member has at least five but fewer than twenty years of creditable service, the member's surviving spouse may elect the lump sum settlement in subdivision (1) of this subsection or a pension. Such pension shall be fifty percent of the member's accrued pension at date of death as computed in subdivision (1) of subsection 1 of section 86.1540, commencing [on the later of the day after the member's death, or the date which would have been the member's earliest possible retirement date permitted under subsection 2 of section 86.1540] **as provided in subsection 3 of section 86.1420;**

(3) If the member has at least twenty years of creditable service, the member's surviving spouse may elect any one of:

- (a) The lump sum settlement in subdivision (1) of this subsection;
  - (b) The pension as computed in subdivision (2) of this subsection; or
  - (c) A pension in the monthly amount determined on a joint and survivor's basis from the actuarial value of the member's accrued annuity at date of death;
- (4) Any death of a retired member occurring before the first payment of the retirement pension shall be deemed to be a death prior to retirement;

(5) For the surviving spouse of a member who died in service after August 28, 2001, benefits payable under subsection 1 of this section shall continue for the lifetime of such surviving spouse without regard to remarriage.

2. Upon death of a member after retirement who has not elected the optional annuity permitted under subsection 3 of section 86.1540, the surviving spouse shall receive a base pension payable for life, equaling fifty percent of the member's base pension, as of the member's retirement date, subject to the following:

(1) No surviving spouse of a member who retires after August 28, 2001, shall be entitled to receive any benefits under sections 86.1310 to 86.1640 unless such spouse was married to the member at the time of the member's retirement; and

(2) Any surviving spouse who was married to such a member at the time of the member's retirement shall be entitled to all benefits for surviving spouses under sections 86.1310 to 86.1640 for the life of such surviving spouse without regard to remarriage.

3. In the case of any member who, prior to August 28, 2001, died in service or retired, the surviving spouse who would qualify for benefits under subsection 1 or 2 of this section but for remarriage, and has not remarried prior to August 28, 2001, but remarries thereafter, shall upon application be appointed by the retirement board as a consultant. For services as such consultant, such surviving spouse shall be compensated in an amount equal to the benefits such spouse would have received under sections 86.1310 to 86.1640 in the absence of such remarriage.

4. Any beneficiary of benefits under sections 86.1310 to 86.1640 who becomes the surviving spouse of more than one member shall be paid all benefits due a surviving spouse of that member whose entitlements produce the largest surviving spouse benefits for such beneficiary but shall not be paid surviving spouse benefits as the surviving spouse of more than one member, except that any surviving spouse for whom an election has been made for an optional benefit under subsection 3 of section 86.1540 shall be entitled to every optional benefit for which such surviving spouse has so contracted.

[5. The final payment due any surviving beneficiary shall be the payment due on the first day of the month in which such beneficiary dies or otherwise ceases to be entitled to benefits under this section.

6. If there is no surviving spouse, payment of the member's accumulated contributions less the amount of any prior payments from the retirement system to the member or to any beneficiary of the member shall be made to the member's designated beneficiary or, if none, to the personal representative of the member's estate.]

**86.1620. FUNERAL BENEFITS, AMOUNT.** — 1. [(1)] Upon the death after August 28, 2003, of a member in service, or upon the death of a member who was in service on or after August 28, 2003, and who dies after having been retired and pensioned, there shall be paid, in addition to all other benefits, a funeral benefit of one thousand dollars to the person or entity who provided or paid for the funeral services for such member.

[(2)] 2. Any member who was retired on or before August 28, 2003, and is receiving retirement benefits from the retirement system, upon application to the retirement board, shall be appointed by the retirement board as a consultant for the remainder of such member's life. Upon the death of such member, there shall be paid, in addition to all other benefits, a funeral benefit of one thousand dollars to the person or entity who provided or paid for the funeral services for such member.

[2. If no benefits are otherwise payable to a surviving spouse of a deceased member, the member's accumulated contributions, to any extent not fully paid to such member prior to the member's death or to the surviving spouse of such member, shall be paid in one lump sum to the member's named beneficiary or, if none, to the member's estate, and such payment shall constitute full and final payment of any and all claims for benefits under the retirement system.]

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**87.127. QUALIFIED GOVERNMENT PLAN, RETIREMENT PLAN INTENDED TO BE.** — A retirement plan under sections 87.120 to 87.370 is intended to be a qualified governmental plan under the provisions of applicable federal law. The benefits and conditions of the plan shall be interpreted and the system shall be operated to ensure that the system meets the federal qualification requirements.

**87.205. ACCIDENTAL DISABILITY RETIREMENT ALLOWANCE.** — 1. Upon retirement for accidental disability **before August 28, 2011**, a member shall receive seventy-five percent of the pay then provided by law for the highest step in the range of salary for the title or rank held by such member at the time of such retirement unless the member is permanently and totally incapacitated from performing any work, occupation or vocation of any kind whatsoever and is continuously confined to the member's home except for visits to obtain medical treatment, in which event the member may receive, in the discretion of the board of trustees, a retirement allowance in an amount not exceeding the member's rate of compensation as a firefighter in effect as of the date the allowance begins.

2. Anyone who has retired pursuant to the provisions of section 87.170 and has been reinstated pursuant to subsection 2 of section 87.130 who subsequently becomes disabled, as provided in section 87.200, shall receive a total benefit which is the higher of either the disability pension or the service pension.

3. Upon retirement for accidental disability on or after August 28, 2011, based on conditions of the heart, lungs, or cancer or based on permanent and total disability which will prevent the member from obtaining employment elsewhere, as determined by the board of trustees based on medical evidence presented by the retirement system's physicians, a member shall receive, regardless of his or her number of years of creditable service, seventy-five percent of the earnable compensation then provided for the step in the range of salary for the title or rank held by such member at the time of such retirement.

4. Except as provided in subsection 3 of this section, upon retirement for accidental disability on or after August 28, 2011, a member shall receive a base pension equal to twenty-five percent of the member's earnable compensation then provided for the step in the range of salary for the title or rank held by such member at the time of such retirement.

5. Except as provided in subsection 3 of this section, upon retirement for accidental disability on or after August 28, 2011, the member may elect to receive an education allowance in an amount not to exceed the tuition for a state resident at the University of Missouri-St. Louis. The accidentally disabled member shall enroll in a college, university, community college, or vocational or technical school at the first opportunity after the accidentally disabled member was retired and shall receive such educational allowance in the form of reimbursement upon proof of payment to such institution. The education allowance described in this subsection shall cease when the accidentally disabled member ceases to be a full-time student, fails to provide proof of achievement of a grade point average of two on a four-point scale or the equivalent on another scale for each academic term, or if the accidentally disabled member is restored to active service as a firefighter, but in no event shall such education allowance be available for more than five years after the member is retired under section 87.200.

6. Except as provided in subsection 3 of this section, upon retirement for accidental disability on or after August 28, 2011, in addition to the base pension provided for in subsection 4 of this section and the education allowance provided for in subsection 5 of this section, members with twenty-five years or less of creditable service shall receive an additional accidental retirement pension equal to two and three-fourths percent of the member's earnable compensation then provided for the step in the range of salary for the

title or rank held by such member at the time of retirement for each year of creditable service equal to or greater than ten years but not more than twenty-five years.

7. Except as provided in subsection 3 of this section, upon retirement for accidental disability on or after August 28, 2011, in addition to the base pension provided for in subsection 4 of this section and the additional accidental retirement pension provided for in subsection 6 of this section, for members with twenty-five years or less of creditable service, then during such time that the disabled member is a full-time student in a college, university, community college, or vocational or technical school and is receiving the educational allowance provided for in subsection 5 of this section, such member shall also receive a supplemental disability retirement pension in the amount necessary so that his or her total accidental disability retirement pension, excluding the education allowance, shall be equal to one hundred percent of the earnable compensation then provided for the step in the range of salary for the title or rank held by such member at the time of such retirement. In no event shall such supplemental accidental disability pension be paid for a period more than five years after the member is retired under section 87.200.

8. Except as provided in subsection 3 of this section, upon retirement for accidental disability on or after August 28, 2011, in addition to the base pension provided for in subsection 4 of this section and the education allowance provided for in subsection 5 of this section, for members with more than twenty-five years of creditable service, such member shall also receive an additional pension equal to fifty percent of the member's earnable compensation then provided for the step in the range of salary for the title or rank held by such member at the time of such retirement.

9. Notwithstanding any other provisions in this section, upon retirement for accidental disability, other than as provided in subsection 3 of this section, on or after August 28, 2011, a member with more than twenty years of creditable service but not more than twenty-five years of creditable service may waive the right to receive the education allowance provided for in subsection 5 of this section, the right to additional pension retirement allowance provided for in subsection 6 of this section, and the right to receive the supplemental disability retirement pension provided for in subsection 7 of this section and may elect to receive instead in addition to the accidental disability retirement base pension as provided for in subsection 4 of this section an additional pension from the date of such member's retirement equal to forty percent of the member's earnable compensation then provided for the step in the range of salary for the title or rank held by such member at the time of such retirement. Any such election shall be made prior to such member's receipt of his or her first accidental disability pension payment.

**87.207. COST-OF-LIVING INCREASE, HOW DETERMINED.** — The following allowances due under the provisions of sections 87.120 to 87.371 of any member who retired from service shall be increased annually, as approved by the board of trustees beginning with the first increase in the October following his or her retirement and subsequent increases in each October thereafter, at the rates designated:

- (1) With a retirement service allowance or ordinary disability allowance:
  - (a) One and one-half percent per year, compounded each year, up to age sixty for those retiring with twenty to twenty-four years of service,
  - (b) Two and one-fourth percent per year, compounded each year, up to age sixty for those retiring with twenty-five to twenty-nine years of service,
  - (c) Three percent per year, compounded each year, up to age sixty for those retiring with thirty or more years of service,
  - (d) After age sixty, five percent per year for five years;
- (2) With an accidental disability allowance, three percent per year, compounded each year, up to age sixty, then five percent per year for five years. **Provided, however, for accidental**

disability on or after August 28, 2011, for reasons other than provided in subsection 3 of section 87.205, unless a member has more than twenty-five years of creditable service, the accidental disability allowance shall only increase at a rate of one percent per year, compounded each year, up to age sixty, then five percent per year for five years. For accidental disability on or after August 28, 2011, for reasons other than provided in subsection 3 of section 87.205, if a member has more than twenty-five years of creditable service, the accidental disability allowance shall only increase at a rate of two and one-fourth percent per year, compounded each year, up to age sixty, then five percent per year for five years.

**100.273. DEVELOPMENT FINANCE BOARD EMPLOYEES ARE STATE EMPLOYEES ELIGIBLE FOR STATE RETIREMENT — NOT ELIGIBLE FOR STATE HEALTH INSURANCE PLAN UNLESS REQUESTED BY BOARD — NO PURCHASE OF CREDITABLE SERVICE, EXCEPTION. —**

**1.** Any person employed by the Missouri development finance board on or after September 1, 2011, in a full-time position shall be both a state employee and a member of the Missouri state employees' retirement system, except that such state employee shall not have coverage under the Missouri consolidated health care plan, unless such coverage is requested by the Missouri development finance board and approved by the board of trustees of the Missouri consolidated health care plan.

**2.** Employees described in subsection 1 of this section may not purchase and receive creditable or credited service in the Missouri state employees' retirement system for prior full-time service with the Missouri development finance board except as follows: such employees shall be permitted to purchase all or a portion of their creditable or credited service in the Missouri state employees' retirement system up to the actual years of prior full-time service with the Missouri development finance board. The cost of the full amount of such creditable or credited service allowed shall be an amount determined to equal the actuarial accrued liability at the time of the purchase to the extent the system's actuarial accrued liability was funded as of the most recent actuarial valuation. If an employee pays less than the full amount so determined, the creditable or credited service granted shall be prorated accordingly. Employees may purchase and receive such creditable or credited service at any time on or after September 1, 2011, but before applying for retirement, and may do so notwithstanding any vesting requirement to the contrary. Any employee who purchases such creditable or credited service and subsequently terminates employment prior to becoming vested in the system may, upon proper application, receive a refund equal to the purchase amount.

**104.603. RECIPROCAL TRANSFER OF CREDITABLE SERVICE, WHEN. — 1.** Effective with transfers of service between the Missouri department of transportation and highway patrol employees' retirement system and the Missouri state employees' retirement system that occur on or after September 1, 2011, upon a reciprocal transfer of creditable or credited service pursuant to section 104.602 or subsection 8 of section 104.1021, the sending system from which the service is transferred shall pay the receiving system to which the service is transferred the present value of the accrued benefit as determined pursuant to subsection 2 of this section.

**2.** For purposes of this section, the present value of the accrued benefit shall be determined using the actuarial assumptions of the sending system used in that system's last regular valuation assuming active member status and using the unit credit actuarial cost method. However, in no event shall the payment amount be less than the sum of the member's accumulated contributions and interest plus any purchased service payments from the member held on deposit by the sending system. If the member had received a refund of accumulated contributions from the sending system and forfeited service credit

with that system, the member would need to reestablish that service with the sending system by again becoming an active member of a system covered by this chapter and satisfying requirements otherwise stipulated for reestablishing service credit.

3. The service transfer shall not be deemed completed until the sending system makes payment to the receiving system as prescribed in this section. Payments shall be made within ninety days of the date that a completed transfer request is submitted by a member.

4. When the transfer payment includes an amount identified as corresponding to a member's accumulated contributions, the accumulated contributions portion shall be identified, and further, the accumulated contributions balance as of the preceding July first shall be identified and the receiving system shall be responsible for crediting interest according to the terms of the receiving plan.

5. The systems shall coordinate their plan administration for reciprocal transfers to give full effect to the transfer including the transfer and acceptance of corresponding division of benefit orders.

6. The member or survivor obtaining a reciprocal transfer of service covered by this section shall satisfy all requirements under section 104.602 or subsection 8 of section 104.1021 to obtain a transfer of credited or creditable service and shall satisfy the requirements under section 104.1091 with the receiving system to reestablish forfeited service previously accrued at either system.

**105.661. ALL RETIREMENT PLANS TO PREPARE FINANCIAL REPORT, CONTENT AUDIT BY STATE AUDITOR AND JOINT COMMITTEE ON PUBLIC EMPLOYEE RETIREMENT — RULES SUBMITTED TO JOINT COMMITTEE ON PUBLIC EMPLOYEE RETIREMENT, WHEN — REPORT REQUIRED.** — 1. Each plan shall annually prepare and have available as public information a comprehensive annual financial report showing the financial condition of the plan as of the end of the plan's fiscal year. The report shall contain, but not be limited to, detailed financial statements prepared in accordance with generally accepted accounting principles for public employee retirement systems including an independent auditors report thereon, prepared by a certified public accountant or a firm of certified public accountants, a detailed summary of the plan's most recent actuarial valuation including a certification letter from the actuary and a summary of actuarial assumptions and methods used in such valuation, a detailed listing of the investments, showing both cost and market value, held by the plan as of the date of the report together with a detailed statement of the annual rates of investment return from all assets and from each type of investment, a detailed list of investments acquired and disposed of during the fiscal year, a listing of the plan's board of trustees or responsible administrative body and administrative staff, a detailed list of administrative expenses of the plan including all fees paid for professional services, a detailed list of brokerage commissions paid, a summary plan description, and such other data as the plan shall deem necessary or desirable for a proper understanding of the condition of the plan. In the event a plan is unable to comply with any of the disclosure requirements outlined above, a detailed statement must be included in the report as to the reason for such noncompliance.

2. Any rule or portion of rule promulgated by any plan pursuant to the authority of chapter 536, or of any other provision of law, shall be submitted to the joint committee on public employee retirement prior to or concurrent with the filing of a notice of proposed rulemaking with the secretary of state's office pursuant to section 536.021. The requirement of this subsection is intended solely for the purpose of notifying the joint committee on public employee retirement with respect to a plan's proposed rulemaking so that the joint committee on public employee retirement has ample opportunity to submit comments with respect to such proposed rulemaking in accordance with the normal process. Any plan not required to file a notice of proposed rulemaking with the secretary of state's office shall submit any proposed rule or portion of a rule to the joint committee on public employee retirement within ten days of its promulgation.

3. A copy of the comprehensive annual financial report as outlined in subsection 1 of this section shall be forwarded within six months of the end of the plan's fiscal year to the state auditor and the joint committee on public employee retirement.

**4. Each defined benefit plan shall submit a quarterly report regarding the plan's investment performance to the joint committee on public employee retirement in the form and manner requested by the committee. If the plan fails to submit this report, the committee may subpoena witnesses, take testimony under oath, and compel the production of records regarding this information, pursuant to its authority under section 21.561.**

**105.915. BOARD TO ADMINISTER PLAN — WRITTEN AGREEMENT REQUIRED — IMMUNITY FROM LIABILITY, WHEN — AUTOMATIC DESIGNATION OF SURVIVING SPOUSE AS PRIMARY BENEFICIARY, WHEN. —** 1. The board of trustees of the Missouri state employees' retirement system shall administer the deferred compensation fund for the employees of the state of Missouri that was previously administered by the deferred compensation commission, as established in section 105.910, prior to August 28, 2007. The board shall be vested with the same powers that it has under chapter 104 to enable it and its officers, employees, and agents to administer the fund under sections 105.900 to 105.927. Two of the commissioners serving on the deferred compensation commission immediately prior to the transfer made to the board under section 105.910 shall serve as ex officio members of the board solely to participate in the duties of administering the deferred compensation fund. One such commissioner serving as an ex officio board member shall be a member of the house of representatives selected by the speaker of the house of representatives, and such commissioner's service on the board shall cease on December 31, 2009. The other commissioner serving as an ex officio board member shall be the chairman of the deferred compensation commission immediately prior to the transfer made to the board under section 105.910, and such commissioner's service on the board shall cease December 31, 2008.

2. **Except as provided in this subsection,** participation in such plan shall be by a specific written agreement between state employees and the state, which shall provide for the deferral of such amounts of compensation as requested by the employee subject to any limitations imposed under federal law. Participating employees must authorize that such deferrals be made from their wages for the purpose of participation in such program. **An election to defer compensation shall be made before the beginning of the month in which the compensation is paid. Contributions shall be made for payroll periods occurring on or after the first day of the month after the election is made. Each employee eligible to participate in the plan hired on or after July 1, 2012, shall be enrolled in the plan automatically and his or her employer shall, in accordance with the plan document, withhold and contribute to the plan an amount equal to one percent of eligible compensation received on and after the date of hire, unless the employee elects not to participate in the plan within the first thirty days of employment, and in that event, any amounts contributed and earnings thereon will be refunded by the plan to the employee pursuant to the procedure contained in the plan documents. Employees who are employed by a state college or university shall not be automatically enrolled but may elect to participate in the plan and make contributions in accordance with the terms of the plan. Employees who are enrolled automatically may elect to change the contribution rate in accordance with the terms of the plan. Employees who elect not to participate in the plan may at a later date elect to participate in the plan and make contributions in accordance with the terms of the plan.** All assets and income of such fund shall be held in trust by the board for the exclusive benefit of participants and their beneficiaries. Assets of such trust, **and the trust established pursuant to section 105.927,** may be pooled solely for investment management purposes with assets of the trust established under section 104.320.

3. Notwithstanding any other provision of sections 105.900 to 105.927, funds held for the state by the board in accordance with written deferred compensation agreements between the state and participating employees may be invested in such investments as are deemed appropriate by the board. All administrative costs of the program described in this section, including staffing and overhead expenses, may be paid out of assets of the fund, which may reduce the amount due participants in the fund. Such investments shall not be construed to be a prohibited use of the general assets of the state.

4. Investments offered under the deferred compensation fund for the employees of the state of Missouri shall be made available at the discretion of the board.

5. The board and employees of the Missouri state employees' retirement system shall be immune from suit and shall not be subject to any claim or liability associated with any administrative actions or decisions made by the commission with regard to the deferred compensation program prior to the transfer made to the board under section 105.910.

6. The board and employees of the system shall not be liable for the investment decisions made or not made by participating employees as long as the board acts with the same skill, prudence, and diligence in the selection and monitoring of providers of investment products, education, advice, or any default investment option, under the circumstances then prevailing that a prudent person acting in a similar capacity and familiar with those matters would use in the conduct of a similar enterprise with similar aims.

7. The system shall be immune from suit and shall not be subject to any claim or liability associated with the administration of the deferred compensation fund by the board and employees of the system.

**8. Beginning on or after September 1, 2011, if a participant under the deferred compensation plan or the plan established under section 105.927 is married on the date of his or her death, the participant's surviving spouse shall be automatically designated as the primary beneficiary under both plans, unless the surviving spouse consented in writing, witnessed by a notary public, to allow the participant to designate a nonspouse beneficiary. As used in this subsection, "surviving spouse" means the spouse as defined pursuant to section 104.012 to whom the participant is lawfully married on the date of death of the participant, provided that a former spouse shall be treated as the surviving spouse of the participant to the extent provided under a judgment, decree, or order that relates to child support, alimony payments, or marital property rights made under Missouri domestic relations law that creates or recognizes the existence of such former spouse's right to receive all or a portion expressed as a stated dollar amount or specific percentage stated in integers of the benefits payable from such plan upon the death of the participant. This subsection shall not apply to beneficiary designations made prior to September 1, 2011.**

**9. The board may adopt and amend plan documents to change the terms and conditions of the deferred compensation plan and the plan established under section 105.927 that are consistent with federal law.**

**105.927. STATE'S CONTRIBUTION TO PARTICIPANTS IN DEFERRED COMPENSATION PROGRAM.** — [1.] The treasurer of the state of Missouri shall credit an amount not to exceed seventy-five dollars per month, to a plan established pursuant to the provisions of the Internal Revenue Code Section 401(a) for each [qualified] participant in the state's deferred compensation program; provided that funds to be credited to each [qualified] participant's account shall not exceed the amount appropriated by the general assembly for each [qualified] participant. **Such funds may be credited to each participant directly by a state agency if that agency's payroll is not issued through the treasurer of the state of Missouri.** Funds so credited shall be held, administered and invested as provided in sections 105.900 to 105.925 and the plan document adopted for the administration of such contributions.

[2. For purposes of this section, "qualified participant" means an employee of the state of Missouri who is making continuous deferrals of at least twenty-five dollars per month to the deferred compensation program and has been an employee of the state of Missouri for at least twelve consecutive months immediately preceding the commencement of any amount credited pursuant to this section. The amount credited on behalf of a qualified participant pursuant to this section shall not exceed the amount that the qualified participant contributes to his or her deferred compensation plan.]

Approved July 8, 2011

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HB 294 [SS#2 SCS HCS HB 294, 123, 125, 113, 271 & 215]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Changes the laws regarding firearms, ammunition, and concealed carry endorsements**

AN ACT to repeal sections 50.535, 302.181, 407.500, 407.505, 571.020, 571.030, 571.101, 571.107, 571.111, and 571.117, RSMo, and to enact in lieu thereof thirteen new sections relating to firearms, with penalty provisions and a contingent effective date for certain sections.

SECTION

- A. Enacting clause.
- 50.535. County sheriff's revolving fund established — fees deposited into, use of moneys — no prior approval for expenditures required — authorized payment of certain expenses.
- 144.064. Firearms or ammunition, limitation on sales tax levied.
- 302.181. Form of license — information shown, exception — photograph not shown, when — temporary license — nondriver's license, fee, duration — exception — rules, adoption, suspension and revocation procedure.
- 571.020. Possession — manufacture — transport — repair — sale of certain weapons a crime — exceptions — penalties.
- 571.030. Unlawful use of weapons — exceptions — penalties.
- 571.063. Fraudulent purchase of a firearm, crime of — definitions — penalty — exceptions.
- 571.085. Purchase in another state by Missouri residents, permitted when.
- 571.087. Purchase in Missouri by nonresident, permitted when.
- 571.101. Concealed carry endorsements, application requirements — approval procedures — issuance of certificates, when — record-keeping requirements — fees.
- 571.107. Endorsement does not authorize concealed firearms, where — penalty for violation.
- 571.111. Firearms training requirements — safety instructor requirements — penalty for violations.
- 571.117. Revocation procedure for ineligible certificate holders — sheriff's immunity from liability, when.
  - 1. Regulation by municipalities permitted—no prohibition at shooting ranges.
- 407.500. Missouri residents may purchase rifles and shotguns in contiguous states, when.
- 407.505. Residents of contiguous states may purchase rifles and shotguns in Missouri, when.
  - B. Contingent effective date.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 50.535, 302.181, 407.500, 407.505, 571.020, 571.030, 571.101, 571.107, 571.111, and 571.117, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 50.535, 144.064, 302.181, 571.020, 571.030, 571.063, 571.085, 571.087, 571.101, 571.107, 571.111, 571.117, and 1, to read as follows:

**50.535. COUNTY SHERIFF'S REVOLVING FUND ESTABLISHED — FEES DEPOSITED INTO, USE OF MONEYS — NO PRIOR APPROVAL FOR EXPENDITURES REQUIRED — AUTHORIZED PAYMENT OF CERTAIN EXPENSES.** — 1. Notwithstanding the provisions of sections 50.525 to 50.745, the fee collected pursuant to subsections 10 and 11 of section 571.101 shall be deposited

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by the county treasurer into a separate interest-bearing fund to be known as the "County Sheriff's Revolving Fund" to be expended at the direction of the county or city sheriff or his or her designee as provided in this section.

2. No prior approval of the expenditures from this fund shall be required by the governing body of the county or city not within a county, nor shall any prior audit or encumbrance of the fund be required before any expenditure is made by the sheriff from this fund. This fund shall only be used by law enforcement agencies for the purchase of equipment, to provide training, and to make necessary expenditures to process applications for concealed carry endorsements or renewals, including but not limited to the purchase of equipment, **information and data exchange**, training, fingerprinting and background checks, employment of additional personnel, and any expenditure necessitated by an action under section 571.114 or 571.117. If the moneys collected and deposited into this fund are not totally expended annually, then the unexpended balance shall remain in said fund and the balance shall be kept in said fund to accumulate from year to year. This fund may be audited by the state auditor's office or the appropriate auditing agency.

3. Notwithstanding any provision of this section to the contrary, the sheriff of every county, regardless of classification, is authorized to pay, from the sheriff's revolving fund, all reasonable and necessary costs and expenses for activities or services occasioned by compliance with sections 571.101 to 571.121. Such was the intent of the general assembly in original enactment of this section and sections 571.101 to 571.121, and it is made express by this section in light of the decision in *Brooks v. State of Missouri*, (Mo. Sup. Ct. February 26, 2004). The application and renewal fees to be charged pursuant to section 571.101 shall be based on the sheriff's good faith estimate, made during regular budgeting cycles, of the actual costs and expenses to be incurred by reason of compliance with sections 571.101 to 571.121. If the maximum fee permitted by section 571.101 is inadequate to cover the actual reasonable and necessary expenses in a given year, and there are not sufficient accumulated unexpended funds in the revolving fund, a sheriff may present specific and verified evidence of the unreimbursed expenses to the office of administration, which upon certification by the attorney general shall reimburse such sheriff for those expenses from an appropriation made for that purpose.

4. If pursuant to subsection 12 of section 571.101, the sheriff of a county of the first classification designates one or more chiefs of police of any town, city, or municipality within such county to accept and process applications for certificates of qualification to obtain a concealed carry endorsement, then that sheriff shall reimburse such chiefs of police, out of the moneys deposited into this fund, for any reasonable expenses related to accepting and processing such applications.

**144.064. FIREARMS OR AMMUNITION, LIMITATION ON SALES TAX LEVIED. — No sales tax levied under this chapter on any firearms or ammunition shall be levied at a rate that is higher than the sales tax levied under this chapter or any other excise tax levied on any sporting goods or equipment or any hunting equipment.**

**302.181. FORM OF LICENSE — INFORMATION SHOWN, EXCEPTION — PHOTOGRAPH NOT SHOWN, WHEN — TEMPORARY LICENSE — NONDRIVER'S LICENSE, FEE, DURATION — EXCEPTION — RULES, ADOPTION, SUSPENSION AND REVOCATION PROCEDURE. — 1.** The license issued pursuant to the provisions of sections 302.010 to 302.340 shall be in such form as the director shall prescribe, but the license shall be a card made of plastic or other comparable material. All licenses shall be manufactured of materials and processes that will prohibit, as nearly as possible, the ability to reproduce, alter, counterfeit, forge, or duplicate any license without ready detection. All licenses shall bear the licensee's Social Security number, if the licensee has one, and if not, a notarized affidavit must be signed by the licensee stating that the licensee does not possess a Social Security number, or, if applicable, a certified statement must be submitted as provided in subsection 4 of this section. The license shall also bear the expiration date of the license, the classification of the license, the name, date of birth, residence address including the county of



residence or a code number corresponding to such county established by the department, and brief description and colored photograph or digitized image of the licensee, and a facsimile of the signature of the licensee. The director shall provide by administrative rule the procedure and format for a licensee to indicate on the back of the license together with the designation for an anatomical gift as provided in section 194.240 the name and address of the person designated pursuant to sections 404.800 to 404.865 as the licensee's attorney in fact for the purposes of a durable power of attorney for health care decisions. No license shall be valid until it has been so signed by the licensee. If any portion of the license is prepared by a private firm, any contract with such firm shall be made in accordance with the competitive purchasing procedures as established by the state director of the division of purchasing. For all licenses issued or renewed after March 1, 1992, the applicant's Social Security number shall serve as the applicant's license number. Where the licensee has no Social Security number, or where the licensee is issued a license without a Social Security number in accordance with subsection 4 of this section, the director shall issue a license number for the licensee and such number shall also include an indicator showing that the number is not a Social Security number.

2. All film involved in the production of photographs for licenses shall become the property of the department of revenue.

3. The license issued shall be carried at all times by the holder thereof while driving a motor vehicle, and shall be displayed upon demand of any officer of the highway patrol, or any police officer or peace officer, or any other duly authorized person, for inspection when demand is made therefor. Failure of any operator of a motor vehicle to exhibit his or her license to any duly authorized officer shall be presumptive evidence that such person is not a duly licensed operator.

4. The director of revenue shall issue a commercial or noncommercial driver's license without a Social Security number to an applicant therefor, who is otherwise qualified to be licensed, upon presentation to the director of a certified statement that the applicant objects to the display of the Social Security number on the license. The director shall assign an identification number, that is not based on a Social Security number, to the applicant which shall be displayed on the license in lieu of the Social Security number.

5. The director of revenue shall not issue a license without a facial photograph or digital image of the license applicant, except as provided pursuant to subsection 8 of this section. A photograph or digital image of the applicant's full facial features shall be taken in a manner prescribed by the director. No photograph or digital image will be taken wearing anything which cloaks the facial features of the individual.

6. The department of revenue may issue a temporary license or a full license without the photograph or with the last photograph or digital image in the department's records to members of the armed forces, except that where such temporary license is issued it shall be valid only until the applicant shall have had time to appear and have his or her picture taken and a license with his or her photograph issued.

7. The department of revenue shall issue upon request a nondriver's license card containing essentially the same information and photograph or digital image, except as provided pursuant to subsection 8 of this section, as the driver's license upon payment of six dollars. All nondriver's licenses shall expire on the applicant's birthday in the sixth year after issuance. A person who has passed his or her seventieth birthday shall upon application be issued a nonexpiring nondriver's license card. **Notwithstanding any other provision of this chapter, a nondriver's license containing a concealed carry endorsement shall expire three years from the date the certificate of qualification was issued pursuant to section 571.101. The fee for nondriver's licenses issued for a period exceeding three years is six dollars or three dollars for nondriver's licenses issued for a period of three years or less.** The nondriver's license card shall be used for identification purposes only and shall not be valid as a license.

8. If otherwise eligible, an applicant may receive a driver's license or nondriver's license without a photograph or digital image of the applicant's full facial features except that such

applicant's photograph or digital image shall be taken and maintained by the director and not printed on such license.

In order to qualify for a license without a photograph or digital image pursuant to this section the applicant must:

(1) Present a form provided by the department of revenue requesting the applicant's photograph be omitted from the license or nondriver's license due to religious affiliations. The form shall be signed by the applicant and another member of the religious tenant verifying the photograph or digital image exemption on the license or nondriver's license is required as part of their religious affiliation. The required signatures on the prescribed form shall be properly notarized;

(2) Provide satisfactory proof to the director that the applicant has been a U.S. citizen for at least five years and a resident of this state for at least one year, except that an applicant moving to this state possessing a valid driver's license from another state without a photograph, shall be exempt from the one-year state residency requirement. The director may establish rules necessary to determine satisfactory proof of citizenship and residency pursuant to this section;

(3) Applications for a driver's license or nondriver's license without a photograph or digital image must be made in person at a license office determined by the director. The director is authorized to limit the number of offices that may issue a driver's or nondriver's license without a photograph or digital image pursuant to this section.

9. The department of revenue shall make available, at one or more locations within the state, an opportunity for individuals to have their full facial photograph taken by an employee of the department of revenue, or their designee, who is of the same sex as the individual being photographed, in a segregated location.

10. Beginning July 1, 2005, the director shall not issue a driver's license or a nondriver's license for a period that exceeds an applicant's lawful presence in the United States. The director may, by rule or regulation, establish procedures to verify the lawful presence of the applicant and establish the duration of any driver's license or nondriver's license issued under this section.

11. No rule or portion of a rule promulgated pursuant to the authority of this chapter shall become effective unless it is promulgated pursuant to the provisions of chapter 536.

**571.020. POSSESSION — MANUFACTURE — TRANSPORT — REPAIR — SALE OF CERTAIN WEAPONS A CRIME — EXCEPTIONS — PENALTIES.** — 1. A person commits a crime if such person knowingly possesses, manufactures, transports, repairs, or sells:

- (1) An explosive weapon;
- (2) An explosive, incendiary or poison substance or material with the purpose to possess, manufacture or sell an explosive weapon;
- (3) [A machine gun;
- (4)] A gas gun;
- [(5)] A short barreled rifle or shotgun;
- (6) A firearm silencer;
- (7)] (4) A switchblade knife;
- [(8)] (5) A bullet or projectile which explodes or detonates upon impact because of an independent explosive charge after having been shot from a firearm; or
- [(9)] (6) Knuckles; or
- (7) Any of the following in violation of federal law:
  - (a) A machine gun;
  - (b) A short barreled rifle or shotgun; or
  - (c) A firearm silencer.

2. A person does not commit a crime pursuant to this section if his conduct **involved any of the items in subdivisions (1) to (6) of subsection 1, the item was possessed in conformity with any applicable federal law, and the conduct:**

- (1) Was incident to the performance of official duty by the armed forces, national guard, a governmental law enforcement agency, or a penal institution; or
- (2) Was incident to engaging in a lawful commercial or business transaction with an organization enumerated in subdivision (1) of this section; or
- (3) Was incident to using an explosive weapon in a manner reasonably related to a lawful industrial or commercial enterprise; or
- (4) Was incident to displaying the weapon in a public museum or exhibition; or
- (5) Was incident to [dealing with] **using** the weapon [solely as a curio, ornament, or keepsake, or to using it] in a manner reasonably related to a lawful dramatic performance[; but if the weapon is a type described in subdivision (1) or (4) of subsection 1 of this section it must be in such a nonfunctioning condition that it cannot readily be made operable. No short barreled rifle, short barreled shotgun, machine gun, or firearm silencer may be possessed, manufactured, transported, repaired or sold as a curio, ornament, or keepsake, unless such person is an importer, manufacturer, dealer, or collector licensed by the Secretary of the Treasury pursuant to the Gun Control Act of 1968, U.S.C., Title 18, or unless such firearm is an antique firearm as defined in subsection 3 of section 571.080, or unless such firearm has been designated a collectors item by the Secretary of the Treasury pursuant to the U.S.C., Title 26, Section 5845(a)].

3. A crime pursuant to subdivision (1), (2), (3)[, (4), (5) or (6)] **or (7)** of subsection 1 of this section is a class C felony; a crime pursuant to subdivision [(7), (8) or (9)] **(4), (5) or (6)** of subsection 1 of this section is a class A misdemeanor.

**571.030. UNLAWFUL USE OF WEAPONS — EXCEPTIONS — PENALTIES.** — 1. A person commits the crime of unlawful use of weapons if he or she knowingly:

- (1) Carries concealed upon or about his or her person a knife, a firearm, a blackjack or any other weapon readily capable of lethal use; or
- (2) Sets a spring gun; or
- (3) Discharges or shoots a firearm into a dwelling house, a railroad train, boat, aircraft, or motor vehicle as defined in section 302.010, or any building or structure used for the assembling of people; or
- (4) Exhibits, in the presence of one or more persons, any weapon readily capable of lethal use in an angry or threatening manner; or
- (5) Has a firearm or projectile weapon readily capable of lethal use on his or her person, while he or she is intoxicated, and handles or otherwise uses such firearm or projectile weapon in either a negligent or unlawful manner or discharges such firearm or projectile weapon unless acting in self-defense;
- (6) Discharges a firearm within one hundred yards of any occupied schoolhouse, courthouse, or church building; or
- (7) Discharges or shoots a firearm at a mark, at any object, or at random, on, along or across a public highway or discharges or shoots a firearm into any outbuilding; or
- (8) Carries a firearm or any other weapon readily capable of lethal use into any church or place where people have assembled for worship, or into any election precinct on any election day, or into any building owned or occupied by any agency of the federal government, state government, or political subdivision thereof; or
- (9) Discharges or shoots a firearm at or from a motor vehicle, as defined in section 301.010, discharges or shoots a firearm at any person, or at any other motor vehicle, or at any building or habitable structure, unless the person was lawfully acting in self-defense; or

(10) Carries a firearm, whether loaded or unloaded, or any other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any function or activity sponsored or sanctioned by school officials or the district school board.

2. **Subdivisions (1), (8), and (10) of subsection 1 of this section shall not apply to the persons described in this subsection, regardless of whether such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties except as otherwise provided in this subsection.** Subdivisions [(1),] (3), (4), (6), (7), [(8),] and (9) [and (10)] of subsection 1 of this section shall not apply to or affect any of the following **persons**, when such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties, **except as otherwise provided in this subsection:**

(1) All state, county and municipal peace officers who have completed the training required by the police officer standards and training commission pursuant to sections 590.030 to 590.050 and who possess the duty and power of arrest for violation of the general criminal laws of the state or for violation of ordinances of counties or municipalities of the state, whether such officers are on or off duty, and whether such officers are within or outside of the law enforcement agency's jurisdiction, or all qualified retired peace officers, as defined in subsection [10] **11** of this section, and who carry the identification defined in subsection [11] **12** of this section, or any person summoned by such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

(2) Wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime;

(3) Members of the armed forces or national guard while performing their official duty;

(4) Those persons vested by article V, section 1 of the Constitution of Missouri with the judicial power of the state and those persons vested by Article III of the Constitution of the United States with the judicial power of the United States, the members of the federal judiciary;

(5) Any person whose bona fide duty is to execute process, civil or criminal;

(6) Any federal probation officer or federal flight deck officer as defined under the federal flight deck officer program, 49 U.S.C. Section 44921 **regardless of whether such officers are on duty, or within the law enforcement agency's jurisdiction;**

(7) Any state probation or parole officer, including supervisors and members of the board of probation and parole;

(8) Any corporate security advisor meeting the definition and fulfilling the requirements of the regulations established by the board of police commissioners under section 84.340;

(9) Any coroner, deputy coroner, medical examiner, or assistant medical examiner; [and]

(10) Any prosecuting attorney or assistant prosecuting attorney or any circuit attorney or assistant circuit attorney who has completed the firearms safety training course required under subsection 2 of section 571.111[.] ; **and**

**(11) Any member of a fire department or fire protection district, who is employed on a full-time basis as a fire investigator and who has a valid concealed carry endorsement under section 571.111 when such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties.**

3. Subdivisions (1), (5), (8), and (10) of subsection 1 of this section do not apply when the actor is transporting such weapons in a nonfunctioning state or in an unloaded state when ammunition is not readily accessible or when such weapons are not readily accessible. Subdivision (1) of subsection 1 of this section does not apply to any person twenty-one years of age or older transporting a concealable firearm in the passenger compartment of a motor vehicle, so long as such concealable firearm is otherwise lawfully possessed, nor when the actor is also in possession of an exposed firearm or projectile weapon for the lawful pursuit of game, or is in his or her dwelling unit or upon premises over which the actor has possession, authority or control, or is traveling in a continuous journey peaceably through this state. Subdivision (10) of subsection

1 of this section does not apply if the firearm is otherwise lawfully possessed by a person while traversing school premises for the purposes of transporting a student to or from school, or possessed by an adult for the purposes of facilitation of a school-sanctioned firearm-related event **or club event**.

4. Subdivisions (1), (8), and (10) of subsection 1 of this section shall not apply to any person who has a valid concealed carry endorsement issued pursuant to sections 571.101 to 571.121 or a valid permit or endorsement to carry concealed firearms issued by another state or political subdivision of another state.

5. Subdivisions (3), (4), (5), (6), (7), (8), (9), and (10) of subsection 1 of this section shall not apply to persons who are engaged in a lawful act of defense pursuant to section 563.031.

6. Nothing in this section shall make it unlawful for a student to actually participate in school-sanctioned gun safety courses, student military or ROTC courses, or other school-sponsored **or club-sponsored** firearm-related events, provided the student does not carry a firearm or other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any other function or activity sponsored or sanctioned by school officials or the district school board.

7. Unlawful use of weapons is a class D felony unless committed pursuant to subdivision (6), (7), or (8) of subsection 1 of this section, in which cases it is a class B misdemeanor, or subdivision (5) or (10) of subsection 1 of this section, in which case it is a class A misdemeanor if the firearm is unloaded and a class D felony if the firearm is loaded, or subdivision (9) of subsection 1 of this section, in which case it is a class B felony, except that if the violation of subdivision (9) of subsection 1 of this section results in injury or death to another person, it is a class A felony.

8. Violations of subdivision (9) of subsection 1 of this section shall be punished as follows:

(1) For the first violation a person shall be sentenced to the maximum authorized term of imprisonment for a class B felony;

(2) For any violation by a prior offender as defined in section 558.016, a person shall be sentenced to the maximum authorized term of imprisonment for a class B felony without the possibility of parole, probation or conditional release for a term of ten years;

(3) For any violation by a persistent offender as defined in section 558.016, a person shall be sentenced to the maximum authorized term of imprisonment for a class B felony without the possibility of parole, probation, or conditional release;

(4) For any violation which results in injury or death to another person, a person shall be sentenced to an authorized disposition for a class A felony.

9. Any person knowingly aiding or abetting any other person in the violation of subdivision (9) of subsection 1 of this section shall be subject to the same penalty as that prescribed by this section for violations by other persons.

10. **Notwithstanding any other provision of law, no person who pleads guilty to or is found guilty of a felony violation of subsection 1 of this section shall receive a suspended imposition of sentence if such person has previously received a suspended imposition of sentence for any other firearms or weapons related felony offense.**

11. As used in this section "qualified retired peace officer" means an individual who:

(1) Retired in good standing from service with a public agency as a peace officer, other than for reasons of mental instability;

(2) Before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;

(3) Before such retirement, was regularly employed as a peace officer for an aggregate of fifteen years or more, or retired from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;

(4) Has a nonforfeitable right to benefits under the retirement plan of the agency if such a plan is available;

(5) During the most recent twelve-month period, has met, at the expense of the individual, the standards for training and qualification for active peace officers to carry firearms;

(6) Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

(7) Is not prohibited by federal law from receiving a firearm.

[11.] **12.** The identification required by subdivision (1) of subsection 2 of this section is:

(1) A photographic identification issued by the agency from which the individual retired from service as a peace officer that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the agency to meet the standards established by the agency for training and qualification for active peace officers to carry a firearm of the same type as the concealed firearm; or

(2) A photographic identification issued by the agency from which the individual retired from service as a peace officer; and

(3) A certification issued by the state in which the individual resides that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the state to meet the standards established by the state for training and qualification for active peace officers to carry a firearm of the same type as the concealed firearm.

**571.063. FRAUDULENT PURCHASE OF A FIREARM, CRIME OF — DEFINITIONS — PENALTY — EXCEPTIONS. — 1. As used in this section the following terms shall mean:**

(1) "Ammunition", any cartridge, shell, or projectile designed for use in a firearm;

(2) "Licensed dealer", a person who is licensed under 18 U.S.C. Section 923 to engage in the business of dealing in firearms;

(3) "Materially false information", any information that portrays an illegal transaction as legal or a legal transaction as illegal;

(4) "Private seller", a person who sells or offers for sale any firearm, as defined in section 571.010, or ammunition.

**2. A person commits the crime of fraudulent purchase of a firearm if such person:**

(1) Knowingly solicits, persuades, encourages or entices a licensed dealer or private seller of firearms or ammunition to transfer a firearm or ammunition under circumstances which the person knows would violate the laws of this state or the United States; or

(2) Provides to a licensed dealer or private seller of firearms or ammunition what the person knows to be materially false information with intent to deceive the dealer or seller about the legality of a transfer of a firearm or ammunition; or

(3) Willfully procures another to violate the provisions of subdivision (1) or (2) of this subsection.

**3. Fraudulent purchase of a firearm is a class D felony.**

**4. This section shall not apply to criminal investigations conducted by the United States Bureau of Alcohol, Tobacco, Firearms and Explosives, authorized agents of such investigations, or to a peace officer, as defined in section 542.261, acting at the explicit direction of the United States Bureau of Alcohol, Tobacco, Firearms and Explosives.**

**571.085. PURCHASE IN ANOTHER STATE BY MISSOURI RESIDENTS, PERMITTED WHEN. — Residents of the state of Missouri may purchase firearms in any state, provided that such residents conform to the applicable provisions of the Federal Gun Control Act of 1968, and regulations thereunder, and provided further that such residents conform to the**

provisions of law applicable to such purchase in the state of Missouri and in the state in which the purchase is made.

**571.087. PURCHASE IN MISSOURI BY NONRESIDENT, PERMITTED WHEN. — Residents of any state may purchase firearms in the state of Missouri, provided that such residents conform to the applicable provisions of the Federal Gun Control Act of 1968, and regulations thereunder, and provided further that such residents conform to the provisions of law applicable to such purchase in the state of Missouri and in the state in which such persons reside.**

**571.101. CONCEALED CARRY ENDORSEMENTS, APPLICATION REQUIREMENTS — APPROVAL PROCEDURES — ISSUANCE OF CERTIFICATES, WHEN — RECORD-KEEPING REQUIREMENTS — FEES. —** 1. All applicants for concealed carry endorsements issued pursuant to subsection 7 of this section must satisfy the requirements of sections 571.101 to 571.121. If the said applicant can show qualification as provided by sections 571.101 to 571.121, the county or city sheriff shall issue a certificate of qualification for a concealed carry endorsement. Upon receipt of such certificate, the certificate holder shall apply for a driver's license or nondriver's license with the director of revenue in order to obtain a concealed carry endorsement. Any person who has been issued a concealed carry endorsement on a driver's license or nondriver's license and such endorsement or license has not been suspended, revoked, canceled, or denied may carry concealed firearms on or about his or her person or within a vehicle. A concealed carry endorsement shall be valid for a period of three years from the date of issuance or renewal. The concealed carry endorsement is valid throughout this state.

2. A certificate of qualification for a concealed carry endorsement issued pursuant to subsection 7 of this section shall be issued by the sheriff or his or her designee of the county or city in which the applicant resides, if the applicant:

(1) Is at least [twenty-three] **twenty-one** years of age, is a citizen of the United States and either:

(a) Has assumed residency in this state; or

(b) Is a member of the armed forces stationed in Missouri, or the spouse of such member of the military;

(2) Has not pled guilty to or entered a plea of nolo contendere or been convicted of a crime punishable by imprisonment for a term exceeding one year under the laws of any state or of the United States other than a crime classified as a misdemeanor under the laws of any state and punishable by a term of imprisonment of one year or less that does not involve an explosive weapon, firearm, firearm silencer or gas gun;

(3) Has not been convicted of, pled guilty to or entered a plea of nolo contendere to one or more misdemeanor offenses involving crimes of violence within a five-year period immediately preceding application for a certificate of qualification for a concealed carry endorsement or if the applicant has not been convicted of two or more misdemeanor offenses involving driving while under the influence of intoxicating liquor or drugs or the possession or abuse of a controlled substance within a five-year period immediately preceding application for a certificate of qualification for a concealed carry endorsement;

(4) Is not a fugitive from justice or currently charged in an information or indictment with the commission of a crime punishable by imprisonment for a term exceeding one year under the laws of any state of the United States other than a crime classified as a misdemeanor under the laws of any state and punishable by a term of imprisonment of two years or less that does not involve an explosive weapon, firearm, firearm silencer, or gas gun;

(5) Has not been discharged under dishonorable conditions from the United States armed forces;

(6) Has not engaged in a pattern of behavior, documented in public records, that causes the sheriff to have a reasonable belief that the applicant presents a danger to himself or others;

(7) Is not adjudged mentally incompetent at the time of application or for five years prior to application, or has not been committed to a mental health facility, as defined in section 632.005, or a similar institution located in another state following a hearing at which the defendant was represented by counsel or a representative;

(8) Submits a completed application for a certificate of qualification as [defined] **described** in subsection 3 of this section;

(9) Submits an affidavit attesting that the applicant complies with the concealed carry safety training requirement pursuant to subsections 1 and 2 of section 571.111;

(10) Is not the respondent of a valid full order of protection which is still in effect.

3. The application for a certificate of qualification for a concealed carry endorsement issued by the sheriff of the county of the applicant's residence shall contain only the following information:

(1) The applicant's name, address, telephone number, gender, and date and place of birth;

(2) An affirmation that the applicant has assumed residency in Missouri or is a member of the armed forces stationed in Missouri or the spouse of such a member of the armed forces and is a citizen of the United States;

(3) An affirmation that the applicant is at least [twenty-three] **twenty-one** years of age;

(4) An affirmation that the applicant has not pled guilty to or been convicted of a crime punishable by imprisonment for a term exceeding one year under the laws of any state or of the United States other than a crime classified as a misdemeanor under the laws of any state and punishable by a term of imprisonment of one year or less that does not involve an explosive weapon, firearm, firearm silencer, or gas gun;

(5) An affirmation that the applicant has not been convicted of, pled guilty to, or entered a plea of nolo contendere to one or more misdemeanor offenses involving crimes of violence within a five-year period immediately preceding application for a certificate of qualification to obtain a concealed carry endorsement or if the applicant has not been convicted of two or more misdemeanor offenses involving driving while under the influence of intoxicating liquor or drugs or the possession or abuse of a controlled substance within a five-year period immediately preceding application for a certificate of qualification to obtain a concealed carry endorsement;

(6) An affirmation that the applicant is not a fugitive from justice or currently charged in an information or indictment with the commission of a crime punishable by imprisonment for a term exceeding one year under the laws of any state or of the United States other than a crime classified as a misdemeanor under the laws of any state and punishable by a term of imprisonment of two years or less that does not involve an explosive weapon, firearm, firearm silencer or gas gun;

(7) An affirmation that the applicant has not been discharged under dishonorable conditions from the United States armed forces;

(8) An affirmation that the applicant is not adjudged mentally incompetent at the time of application or for five years prior to application, or has not been committed to a mental health facility, as defined in section 632.005, or a similar institution located in another state, except that a person whose release or discharge from a facility in this state pursuant to chapter 632, or a similar discharge from a facility in another state, occurred more than five years ago without subsequent recommitment may apply;

(9) An affirmation that the applicant has received firearms safety training that meets the standards of applicant firearms safety training defined in subsection 1 or 2 of section 571.111;

(10) An affirmation that the applicant, to the applicant's best knowledge and belief, is not the respondent of a valid full order of protection which is still in effect; and

(11) A conspicuous warning that false statements made by the applicant will result in prosecution for perjury pursuant to the laws of the state of Missouri.



4. An application for a certificate of qualification for a concealed carry endorsement shall be made to the sheriff of the county or any city not within a county in which the applicant resides. An application shall be filed in writing, signed under oath and under the penalties of perjury, and shall state whether the applicant complies with each of the requirements specified in subsection 2 of this section. In addition to the completed application, the applicant for a certificate of qualification for a concealed carry endorsement must also submit the following:

(1) A photocopy of a firearms safety training certificate of completion or other evidence of completion of a firearms safety training course that meets the standards established in subsection 1 or 2 of section 571.111; and

(2) A nonrefundable certificate of qualification fee as provided by subsection 10 or 11 of this section.

5. Before an application for a certificate of qualification for a concealed carry endorsement is approved, the sheriff shall make only such inquiries as he or she deems necessary into the accuracy of the statements made in the application. The sheriff may require that the applicant display a Missouri driver's license or nondriver's license or military identification and orders showing the person being stationed in Missouri. In order to determine the applicant's suitability for a certificate of qualification for a concealed carry endorsement, the applicant shall be fingerprinted. The sheriff shall request a criminal background check through the appropriate law enforcement agency within three working days after submission of the properly completed application for a certificate of qualification for a concealed carry endorsement. If no disqualifying record is identified by the fingerprint check at the state level, the fingerprints shall be forwarded to the Federal Bureau of Investigation for a national criminal history record check. Upon receipt of the completed background check, the sheriff shall issue a certificate of qualification for a concealed carry endorsement within three working days. The sheriff shall issue the certificate within forty-five calendar days if the criminal background check has not been received, provided that the sheriff shall revoke any such certificate and endorsement within twenty-four hours of receipt of any background check that results in a disqualifying record, and shall notify the department of revenue.

6. The sheriff may refuse to approve an application for a certificate of qualification for a concealed carry endorsement if he or she determines that any of the requirements specified in subsection 2 of this section have not been met, or if he or she has a substantial and demonstrable reason to believe that the applicant has rendered a false statement regarding any of the provisions of sections 571.101 to 571.121. If the applicant is found to be ineligible, the sheriff is required to deny the application, and notify the applicant in writing, stating the grounds for denial and informing the applicant of the right to submit, within thirty days, any additional documentation relating to the grounds of the denial. Upon receiving any additional documentation, the sheriff shall reconsider his or her decision and inform the applicant within thirty days of the result of the reconsideration. The applicant shall further be informed in writing of the right to appeal the denial pursuant to subsections 2, 3, 4, and 5 of section 571.114. After two additional reviews and denials by the sheriff, the person submitting the application shall appeal the denial pursuant to subsections 2, 3, 4, and 5 of section 571.114.

7. If the application is approved, the sheriff shall issue a certificate of qualification for a concealed carry endorsement to the applicant within a period not to exceed three working days after his or her approval of the application. The applicant shall sign the certificate of qualification in the presence of the sheriff or his or her designee and shall within seven days of receipt of the certificate of qualification take the certificate of qualification to the department of revenue. Upon verification of the certificate of qualification and completion of a driver's license or nondriver's license application pursuant to chapter 302, the director of revenue shall issue a new driver's license or nondriver's license with an endorsement which identifies that the applicant has received a certificate of qualification to carry concealed weapons issued pursuant to sections 571.101 to 571.121 if the applicant is otherwise qualified to receive such driver's license or nondriver's license. **Notwithstanding any other provision of chapter 302, a nondriver's license with a concealed**

**carry endorsement shall expire three years from the date the certificate of qualification was issued pursuant to this section** The requirements for the director of revenue to issue a concealed carry endorsement pursuant to this subsection shall not be effective until July 1, 2004, and the certificate of qualification issued by a county sheriff pursuant to subsection 1 of this section shall allow the person issued such certificate to carry a concealed weapon pursuant to the requirements of subsection 1 of section 571.107 in lieu of the concealed carry endorsement issued by the director of revenue from October 11, 2003, until the concealed carry endorsement is issued by the director of revenue on or after July 1, 2004, unless such certificate of qualification has been suspended or revoked for cause.

8. The sheriff shall keep a record of all applications for a certificate of qualification for a concealed carry endorsement and his or her action thereon. The sheriff shall report the issuance of a certificate of qualification to the Missouri uniform law enforcement system. All information on any such certificate that is protected information on any driver's or nondriver's license shall have the same personal protection for purposes of sections 571.101 to 571.121. An applicant's status as a holder of a certificate of qualification or a concealed carry endorsement shall not be public information and shall be considered personal protected information. Any person who violates the provisions of this subsection by disclosing protected information shall be guilty of a class A misdemeanor.

9. Information regarding any holder of a certificate of qualification or a concealed carry endorsement is a closed record.

10. For processing an application for a certificate of qualification for a concealed carry endorsement pursuant to sections 571.101 to 571.121, the sheriff in each county shall charge a nonrefundable fee not to exceed one hundred dollars which shall be paid to the treasury of the county to the credit of the sheriff's revolving fund.

11. For processing a renewal for a certificate of qualification for a concealed carry endorsement pursuant to sections 571.101 to 571.121, the sheriff in each county shall charge a nonrefundable fee not to exceed fifty dollars which shall be paid to the treasury of the county to the credit of the sheriff's revolving fund.

12. For the purposes of sections 571.101 to 571.121, the term "sheriff" shall include the sheriff of any county or city not within a county or his or her designee and in counties of the first classification the sheriff may designate the chief of police of any city, town, or municipality within such county.

**571.107. ENDORSEMENT DOES NOT AUTHORIZE CONCEALED FIREARMS, WHERE — PENALTY FOR VIOLATION. —** 1. A concealed carry endorsement issued pursuant to sections 571.101 to 571.121 or a concealed carry endorsement or permit issued by another state or political subdivision of another state shall authorize the person in whose name the permit or endorsement is issued to carry concealed firearms on or about his or her person or vehicle throughout the state. No driver's license or nondriver's license containing a concealed carry endorsement issued pursuant to sections 571.101 to 571.121 or a concealed carry endorsement or permit issued by another state or political subdivision of another state shall authorize any person to carry concealed firearms into:

(1) Any police, sheriff, or highway patrol office or station without the consent of the chief law enforcement officer in charge of that office or station. Possession of a firearm in a vehicle on the premises of the office or station shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(2) Within twenty-five feet of any polling place on any election day. Possession of a firearm in a vehicle on the premises of the polling place shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(3) The facility of any adult or juvenile detention or correctional institution, prison or jail. Possession of a firearm in a vehicle on the premises of any adult, juvenile detention, or

correctional institution, prison or jail shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(4) Any courthouse solely occupied by the circuit, appellate or supreme court, or any courtrooms, administrative offices, libraries or other rooms of any such court whether or not such court solely occupies the building in question. This subdivision shall also include, but not be limited to, any juvenile, family, drug, or other court offices, any room or office wherein any of the courts or offices listed in this subdivision are temporarily conducting any business within the jurisdiction of such courts or offices, and such other locations in such manner as may be specified by supreme court rule pursuant to subdivision (6) of this subsection. Nothing in this subdivision shall preclude those persons listed in subdivision (1) of subsection 2 of section 571.030 while within their jurisdiction and on duty, those persons listed in subdivisions (2), (4), and (10) of subsection 2 of section 571.030, or such other persons who serve in a law enforcement capacity for a court as may be specified by supreme court rule pursuant to subdivision (6) of this subsection from carrying a concealed firearm within any of the areas described in this subdivision. Possession of a firearm in a vehicle on the premises of any of the areas listed in this subdivision shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(5) Any meeting of the governing body of a unit of local government; or any meeting of the general assembly or a committee of the general assembly, except that nothing in this subdivision shall preclude a member of the body holding a valid concealed carry endorsement from carrying a concealed firearm at a meeting of the body which he or she is a member. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises. **Nothing in this subdivision shall preclude a member of the general assembly, a full-time employee of the general assembly employed under section 17, article III, Constitution of Missouri, legislative employees of the general assembly as determined under section 21.155, or statewide elected officials and their employees, holding a valid concealed carry endorsement, from carrying a concealed firearm in the state capitol building or at a meeting whether of the full body of a house of the general assembly or a committee thereof, that is held in the state capitol building;**

(6) The general assembly, supreme court, county or municipality may by rule, administrative regulation, or ordinance prohibit or limit the carrying of concealed firearms by endorsement holders in that portion of a building owned, leased or controlled by that unit of government. Any portion of a building in which the carrying of concealed firearms is prohibited or limited shall be clearly identified by signs posted at the entrance to the restricted area. The statute, rule or ordinance shall exempt any building used for public housing by private persons, highways or rest areas, firing ranges, and private dwellings owned, leased, or controlled by that unit of government from any restriction on the carrying or possession of a firearm. The statute, rule or ordinance shall not specify any criminal penalty for its violation but may specify that persons violating the statute, rule or ordinance may be denied entrance to the building, ordered to leave the building and if employees of the unit of government, be subjected to disciplinary measures for violation of the provisions of the statute, rule or ordinance. The provisions of this subdivision shall not apply to any other unit of government;

(7) Any establishment licensed to dispense intoxicating liquor for consumption on the premises, which portion is primarily devoted to that purpose, without the consent of the owner or manager. The provisions of this subdivision shall not apply to the licensee of said establishment. The provisions of this subdivision shall not apply to any bona fide restaurant open to the general public having dining facilities for not less than fifty persons and that receives at least fifty-one percent of its gross annual income from the dining facilities by the sale of food. This subdivision does not prohibit the possession of a firearm in a vehicle on the premises of the establishment and shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished

while the vehicle is on the premises. Nothing in this subdivision authorizes any individual who has been issued a concealed carry endorsement to possess any firearm while intoxicated;

(8) Any area of an airport to which access is controlled by the inspection of persons and property. Possession of a firearm in a vehicle on the premises of the airport shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(9) Any place where the carrying of a firearm is prohibited by federal law;

(10) Any higher education institution or elementary or secondary school facility without the consent of the governing body of the higher education institution or a school official or the district school board. Possession of a firearm in a vehicle on the premises of any higher education institution or elementary or secondary school facility shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(11) Any portion of a building used as a child-care facility without the consent of the manager. Nothing in this subdivision shall prevent the operator of a child-care facility in a family home from owning or possessing a firearm or a driver's license or nondriver's license containing a concealed carry endorsement;

(12) Any riverboat gambling operation accessible by the public without the consent of the owner or manager pursuant to rules promulgated by the gaming commission. Possession of a firearm in a vehicle on the premises of a riverboat gambling operation shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(13) Any gated area of an amusement park. Possession of a firearm in a vehicle on the premises of the amusement park shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(14) Any church or other place of religious worship without the consent of the minister or person or persons representing the religious organization that exercises control over the place of religious worship. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(15) Any private property whose owner has posted the premises as being off-limits to concealed firearms by means of one or more signs displayed in a conspicuous place of a minimum size of eleven inches by fourteen inches with the writing thereon in letters of not less than one inch. The owner, business or commercial lessee, manager of a private business enterprise, or any other organization, entity, or person may prohibit persons holding a concealed carry endorsement from carrying concealed firearms on the premises and may prohibit employees, not authorized by the employer, holding a concealed carry endorsement from carrying concealed firearms on the property of the employer. If the building or the premises are open to the public, the employer of the business enterprise shall post signs on or about the premises if carrying a concealed firearm is prohibited. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises. An employer may prohibit employees or other persons holding a concealed carry endorsement from carrying a concealed firearm in vehicles owned by the employer;

(16) Any sports arena or stadium with a seating capacity of five thousand or more. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(17) Any hospital accessible by the public. Possession of a firearm in a vehicle on the premises of a hospital shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.

2. Carrying of a concealed firearm in a location specified in subdivisions (1) to (17) of subsection 1 of this section by any individual who holds a concealed carry endorsement issued pursuant to sections 571.101 to 571.121 shall not be a criminal act but may subject the person to

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denial to the premises or removal from the premises. If such person refuses to leave the premises and a peace officer is summoned, such person may be issued a citation for an amount not to exceed one hundred dollars for the first offense. If a second citation for a similar violation occurs within a six-month period, such person shall be fined an amount not to exceed two hundred dollars and his or her endorsement to carry concealed firearms shall be suspended for a period of one year. If a third citation for a similar violation is issued within one year of the first citation, such person shall be fined an amount not to exceed five hundred dollars and shall have his or her concealed carry endorsement revoked and such person shall not be eligible for a concealed carry endorsement for a period of three years. Upon conviction of charges arising from a citation issued pursuant to this subsection, the court shall notify the sheriff of the county which issued the certificate of qualification for a concealed carry endorsement and the department of revenue. The sheriff shall suspend or revoke the certificate of qualification for a concealed carry endorsement and the department of revenue shall issue a notice of such suspension or revocation of the concealed carry endorsement and take action to remove the concealed carry endorsement from the individual's driving record. The director of revenue shall notify the licensee that he or she must apply for a new license pursuant to chapter 302 which does not contain such endorsement. A concealed carry endorsement suspension pursuant to sections 571.101 to 571.121 shall be reinstated at the time of the renewal of his or her driver's license. The notice issued by the department of revenue shall be mailed to the last known address shown on the individual's driving record. The notice is deemed received three days after mailing.

**571.111. FIREARMS TRAINING REQUIREMENTS — SAFETY INSTRUCTOR REQUIREMENTS — PENALTY FOR VIOLATIONS.** — 1. An applicant for a concealed carry endorsement shall demonstrate knowledge of firearms safety training. This requirement shall be fully satisfied if the applicant for a concealed carry endorsement:

- (1) Submits a photocopy of a certificate of firearms safety training course completion, as defined in subsection 2 of this section, signed by a qualified firearms safety instructor as defined in subsection 5 of this section; or
- (2) Submits a photocopy of a certificate that shows the applicant completed a firearms safety course given by or under the supervision of any state, county, municipal, or federal law enforcement agency; or
- (3) Is a qualified firearms safety instructor as defined in subsection 5 of this section; or
- (4) Submits proof that the applicant currently holds any type of valid peace officer license issued under the requirements of chapter 590; or
- (5) Submits proof that the applicant is currently allowed to carry firearms in accordance with the certification requirements of section 217.710; or
- (6) Submits proof that the applicant is currently certified as any class of corrections officer by the Missouri department of corrections and has passed at least one eight-hour firearms training course, approved by the director of the Missouri department of corrections under the authority granted to him or her by section 217.105, that includes instruction on the justifiable use of force as prescribed in chapter 563.

2. A certificate of firearms safety training course completion may be issued to any applicant by any qualified firearms safety instructor. On the certificate of course completion the qualified firearms safety instructor shall affirm that the individual receiving instruction has taken and passed a firearms safety course of at least eight hours in length taught by the instructor that included:

- (1) Handgun safety in the classroom, at home, on the firing range and while carrying the firearm;
- (2) A physical demonstration performed by the applicant that demonstrated his or her ability to safely load and unload a revolver and a semiautomatic pistol and demonstrated his or her marksmanship with both;
- (3) The basic principles of marksmanship;

- (4) Care and cleaning of concealable firearms;
  - (5) Safe storage of firearms at home;
  - (6) The requirements of this state for obtaining a certificate of qualification for a concealed carry endorsement from the sheriff of the individual's county of residence and a concealed carry endorsement issued by the department of revenue;
  - (7) The laws relating to firearms as prescribed in this chapter;
  - (8) The laws relating to the justifiable use of force as prescribed in chapter 563;
  - (9) A live firing exercise of sufficient duration for each applicant to fire [a handgun] **both a revolver and a semiautomatic pistol**, from a standing position or its equivalent, a minimum of fifty rounds **from each handgun** at a distance of seven yards from a B-27 silhouette target or an equivalent target;
  - (10) A live fire test administered to the applicant while the instructor was present of twenty rounds **from each handgun** from a standing position or its equivalent at a distance from a B-27 silhouette target, or an equivalent target, of seven yards.
3. A qualified firearms safety instructor shall not give a grade of passing to an applicant for a concealed carry endorsement who:
- (1) Does not follow the orders of the qualified firearms instructor or cognizant range officer;
- or
- (2) Handles a firearm in a manner that, in the judgment of the qualified firearm safety instructor, poses a danger to the applicant or to others; or
  - (3) During the live fire testing portion of the course fails to hit the silhouette portion of the targets with at least fifteen rounds, **with both handguns**.
4. Qualified firearms safety instructors who provide firearms safety instruction to any person who applies for a concealed carry endorsement shall:
- (1) Make the applicant's course records available upon request to the sheriff of the county in which the applicant resides;
  - (2) Maintain all course records on students for a period of no less than four years from course completion date; and
  - (3) Not have more than forty students in the classroom portion of the course or more than five students per range officer engaged in range firing.
5. A firearms safety instructor shall be considered to be a qualified firearms safety instructor by any sheriff issuing a certificate of qualification for a concealed carry endorsement pursuant to sections 571.101 to 571.121 if the instructor:
- (1) Is a valid firearms safety instructor certified by the National Rifle Association holding a rating as a personal protection instructor or pistol marksmanship instructor; or
  - (2) Submits a photocopy of a certificate from a firearms safety instructor's course offered by a local, state, or federal governmental agency; or
  - (3) Submits a photocopy of a certificate from a firearms safety instructor course approved by the department of public safety; or
  - (4) Has successfully completed a firearms safety instructor course given by or under the supervision of any state, county, municipal, or federal law enforcement agency; or
  - (5) Is a certified police officer firearms safety instructor.
6. Any firearms safety instructor who knowingly provides any sheriff with **any** false information concerning an applicant's performance [on the live fire exercise or test administered to the applicant by the instructor pursuant to subdivision (9) or (10) of subsection 2 of this section] **on any portion of the required training and qualification** shall be guilty of a class C misdemeanor.

**571.117. REVOCATION PROCEDURE FOR INELIGIBLE CERTIFICATE HOLDERS — SHERIFF'S IMMUNITY FROM LIABILITY, WHEN. —** 1. Any person who has knowledge that

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another person, who was issued a certificate of qualification for a concealed carry endorsement pursuant to sections 571.101 to 571.121, never was or no longer is eligible for such endorsement under the criteria established in sections 571.101 to 571.121 may file a petition with the clerk of the small claims court to revoke that person's certificate of qualification for a concealed carry endorsement and such person's concealed carry endorsement. The petition shall be in a form substantially similar to the petition for revocation of concealed carry endorsement provided in this section. Appeal forms shall be provided by the clerk of the small claims court free of charge to any person:

SMALL CLAIMS COURT

In the Circuit Court of ....., Missouri

....., PLAINTIFF

)

)

vs. ) Case Number .....

)

)

....., DEFENDANT,

Carry Endorsement Holder

....., DEFENDANT,

Sheriff of Issuance

PETITION FOR REVOCATION  
OF CERTIFICATE OF QUALIFICATION  
OR CONCEALED CARRY ENDORSEMENT

Plaintiff states to the court that the defendant, ....., has a certificate of qualification or a concealed carry endorsement issued pursuant to sections 571.101 to 571.121, RSMo, and that the defendant's certificate of qualification or concealed carry endorsement should now be revoked because the defendant either never was or no longer is eligible for such a certificate or endorsement pursuant to the provisions of sections 571.101 to 571.121, RSMo, specifically plaintiff states that defendant, ....., never was or no longer is eligible for such certificate or endorsement for one or more of the following reasons:

(CHECK BELOW EACH REASON  
THAT APPLIES TO THIS DEFENDANT)

- ☐ Defendant is not at least [twenty-three] **twenty-one** years of age.
- ☐ Defendant is not a citizen of the United States.
- ☐ Defendant had not resided in this state [for at least six months] prior to issuance of the permit and does not qualify as a military member or spouse of a military member stationed in Missouri.
- ☐ Defendant has pled guilty to or been convicted of a crime punishable by imprisonment for a term exceeding one year under the laws of any state or of the United States other than a crime classified as a misdemeanor under the laws of any state and punishable by a term of imprisonment of one year or less that does not involve an explosive weapon, firearm, firearm silencer, or gas gun.
- ☐ Defendant has been convicted of, pled guilty to or entered a plea of nolo contendere to one or more misdemeanor offenses involving crimes of violence within a five-year period immediately preceding application for a certificate of qualification or concealed carry endorsement issued pursuant to sections 571.101 to 571.121, RSMo, or if the applicant has been convicted of two or more misdemeanor offenses involving driving while under the influence of intoxicating liquor or drugs or the possession or abuse of a controlled substance within a five-year period immediately preceding application for a certificate of qualification or a concealed carry endorsement issued pursuant to sections 571.101 to 571.121, RSMo.

- [ ] Defendant is a fugitive from justice or currently charged in an information or indictment with the commission of a crime punishable by imprisonment for a term exceeding one year under the laws of any state of the United States other than a crime classified as a misdemeanor under the laws of any state and punishable by a term of imprisonment of one year or less that does not involve an explosive weapon, firearm, firearm silencer, or gas gun.
- [ ] Defendant has been discharged under dishonorable conditions from the United States armed forces.
- [ ] Defendant is reasonably believed by the sheriff to be a danger to self or others based on previous, documented pattern.
- [ ] Defendant is adjudged mentally incompetent at the time of application or for five years prior to application, or has been committed to a mental health facility, as defined in section 632.005, RSMo, or a similar institution located in another state, except that a person whose release or discharge from a facility in this state pursuant to chapter 632, RSMo, or a similar discharge from a facility in another state, occurred more than five years ago without subsequent recommitment may apply.
- [ ] Defendant failed to submit a completed application for a certificate of qualification or concealed carry endorsement issued pursuant to sections 571.101 to 571.121, RSMo.
- [ ] Defendant failed to submit to or failed to clear the required background check.
- [ ] Defendant failed to submit an affidavit attesting that the applicant complies with the concealed carry safety training requirement pursuant to subsection 1 of section 571.111, RSMo.

The plaintiff subject to penalty for perjury states that the information contained in this petition is true and correct to the best of the plaintiff's knowledge, is reasonably based upon the petitioner's personal knowledge and is not primarily intended to harass the defendant/respondent named herein.

....., PLAINTIFF

2. If at the hearing the plaintiff shows that the defendant was not eligible for the certificate of qualification or the concealed carry endorsement issued pursuant to sections 571.101 to 571.121, at the time of issuance or renewal or is no longer eligible for a certificate of qualification or the concealed carry endorsement issued pursuant to the provisions of sections 571.101 to 571.121, the court shall issue an appropriate order to cause the revocation of the certificate of qualification or concealed carry endorsement. Costs shall not be assessed against the sheriff.

3. The finder of fact, in any action brought against an endorsement holder pursuant to subsection 1 of this section, shall make findings of fact and the court shall make conclusions of law addressing the issues at dispute. If it is determined that the plaintiff in such an action acted without justification or with malice or primarily with an intent to harass the endorsement holder or that there was no reasonable basis to bring the action, the court shall order the plaintiff to pay the defendant/respondent all reasonable costs incurred in defending the action including, but not limited to, attorney's fees, deposition costs, and lost wages. Once the court determines that the plaintiff is liable to the defendant/respondent for costs and fees, the extent and type of fees and costs to be awarded should be liberally calculated in defendant/respondent's favor. Notwithstanding any other provision of law, reasonable attorney's fees shall be presumed to be at least one hundred fifty dollars per hour.

4. Any person aggrieved by any final judgment rendered by a small claims court in a petition for revocation of a certificate of qualification or concealed carry endorsement may have a right to trial de novo as provided in sections 512.180 to 512.320.

5. The office of the county sheriff or any employee or agent of the county sheriff shall not be liable for damages in any civil action arising from alleged wrongful or improper granting, renewing, or failure to revoke a certificate of qualification or a concealed carry endorsement issued pursuant to sections 571.101 to 571.121, so long as the sheriff acted in good faith.



**SECTION 1. REGULATION BY MUNICIPALITIES PERMITTED--NO PROHIBITION AT SHOOTING RANGES. — 1.** A municipality may regulate, by order or ordinance, the shooting of pneumatic guns within its boundaries when the municipality is, in the opinion of the governing body, so heavily populated that such conduct is dangerous to the inhabitants thereof. The municipality may require supervision by a parent, guardian, or other adult supervisor who is approved by a parent or guardian, of any minor below the age of twelve in all uses of pneumatic guns on public property. The ordinance may specify that minors twelve years of age or older may, with the consent of a parent or guardian, use a pneumatic gun at any place designated for such use by the local governing body or on private property with the consent of the owner. The ordinance may specify that any minor shall be responsible for obeying all laws, regulations, and restrictions governing such use, regardless of whether a parent or guardian has permitted such use.

**2.** No such ordinance shall prohibit the use pneumatic guns at facilities approved for shooting ranges.

**[407.500. MISSOURI RESIDENTS MAY PURCHASE RIFLES AND SHOTGUNS IN CONTIGUOUS STATES, WHEN. —** Residents of the state of Missouri may purchase rifles and shotguns in a state contiguous to the state of Missouri, provided that such residents conform to the applicable provisions of the Federal Gun Control Act of 1968, and regulations thereunder, as administered by the United States Secretary of the Treasury, and provided further that such residents conform to the provisions of law applicable to such purchase in the state of Missouri and in the contiguous state in which the purchase is made.]

**[407.505. RESIDENTS OF CONTIGUOUS STATES MAY PURCHASE RIFLES AND SHOTGUNS IN MISSOURI, WHEN. —** Residents of a state contiguous to the state of Missouri may purchase rifles and shotguns in the state of Missouri, provided that such residents conform to the applicable provisions of the Federal Gun Control Act of 1968, and regulations thereunder, as administered by the United States Secretary of the Treasury, and provided further that such residents conform to the provisions of law applicable to such purchase in the state of Missouri and in the state in which such persons reside.]

**SECTION B. CONTINGENT EFFECTIVE DATE. —** The repeal and reenactment of sections 302.181 and 571.101 shall become effective on the date the director of the department of revenue begins to issue nondriver licenses with conceal carry endorsements that expire three years from the dates the certificates of qualification were issued, or on January 1, 2013, whichever occurs first. If the director of revenue begins issuing nondriver licenses with conceal carry endorsements that expire three years from the dates the certificates of qualification were issued under the authority granted under sections 302.181 and 571.101 prior to January 1, 2013, the director of the department of revenue shall notify the revisor of statutes of such fact.

Approved July 8, 2011

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HB 300 [SCS HCS HB 300, 334 & 387]

**EXPLANATION —** Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

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**Establishes the Interscholastic Youth Sports Brain Injury Prevention Act which requires the Department of Health and Senior Services to develop guidelines on the risk of concussion and brain injury**

AN ACT to amend chapter 167, RSMo, by adding thereto two new sections relating to student athlete brain injuries.

SECTION

A. Enacting clause.

167.765. Interscholastic youth sports brain injury prevention, rulemaking authority — information distribution — removal of athletes from competition, when.

167.775. Annual report on impact of concussions and head injuries, statewide athletic organizations.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Chapter 167, RSMo, is amended by adding thereto two new sections, to be known as sections 167.765 and 167.775, to read as follows:

**167.765. INTERSCHOLASTIC YOUTH SPORTS BRAIN INJURY PREVENTION, RULEMAKING AUTHORITY — INFORMATION DISTRIBUTION — REMOVAL OF ATHLETES FROM COMPETITION, WHEN. — 1.** The provisions of this section shall be known as the "Interscholastic Youth Sports Brain Injury Prevention Act". No later than December 31, 2011, the department of health and senior services shall work with a statewide association of school boards, a statewide activities association that provides oversight for athletic or activity eligibility for students and school districts, and an organization named by the department of health and senior services that specializes in support services, education, and advocacy of those with brain injuries to promulgate rules which develop guidelines, pertinent information, and forms to educate coaches, youth athletes, and parents or guardians of youth athletes of the nature and risk of concussion and brain injury including continuing to play after concussion or brain injury. The primary focus of rules promulgated under this section shall be the safety and protection against long-term injury to the youth athlete.

2. On a yearly basis, each school district shall distribute a concussion and brain injury information sheet to each youth athlete participating in the district's athletic program. The information form shall be signed by the youth athlete's parent or guardian and submitted to the school district prior to the youth athlete's participation in any athletic practice or competition.

3. A youth athlete who is suspected of sustaining a concussion or brain injury in a practice or game shall be removed from competition at that time and for no less than twenty-four hours.

4. A youth athlete who has been removed from play shall not return to competition until the athlete is evaluated by a licensed health care provider trained in the evaluation and management of concussions as defined in the guidelines developed under subsection 1 of this section and receives written clearance to return to competition from that health care provider.

5. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the

grant of rulemaking authority and any rule proposed or adopted after August 28, 2011, shall be invalid and void.

**167.775. ANNUAL REPORT ON IMPACT OF CONCUSSIONS AND HEAD INJURIES, STATEWIDE ATHLETIC ORGANIZATIONS. — 1.** Any statewide athletic organization with a public school district as a member shall be required to publish an annual report relating to the impact of concussions and head injuries on student athletes which details efforts that may be made to minimize damages from injuries sustained by students participating in school sports. The annual report shall be distributed to the joint committee on education, the house committee on elementary and secondary education or any other education committee designated by the speaker of the house of representatives, and the senate committee on education or any other education committee designated by the president pro tem of the senate. The first report required under this section shall be completed and distributed no later than January 31, 2012. Such report shall be made available to school districts and to parents of students.

**2.** Notwithstanding any other law, no public school shall be a member of any statewide athletic organization failing to comply with the provisions of subsection 1 of this section.

Approved July 13, 2011

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HB 307 [SCS HB 307 & HB 812]

**EXPLANATION —** Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Allows the Department of Revenue to issue specified special license plates for any vehicle except an apportioned motor vehicle or a commercial motor vehicle in excess of 18,000 pounds gross weight**

AN ACT to amend chapter 301, RSMo, by adding thereto four new sections relating to special license plates.

SECTION

- A. Enacting clause.
- 301.477. Combat Action Badge special license plate authorized, fee.
- 301.3161. Cass County — The Burnt District special license plate authorized, fee.
- 301.4006. Nixa Education Foundation special license plate authorized, fee.
- 301.4035. Don't Tread on Me special license plate authorized.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Chapter 301, RSMo, is amended by adding thereto four new sections, to be known as sections 301.477, 301.3161, 301.4006, and 301.4035, to read as follows:

**301.477. COMBAT ACTION BADGE SPECIAL LICENSE PLATE AUTHORIZED, FEE. — 1.** Any person who has been awarded the combat action badge may apply for special personalized motor vehicle license plates for any vehicle the person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight.

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2. Any such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof as a recipient of the combat action badge as the director may require.

3. The director shall then issue license plates bearing the words "COMBAT ACTION" in place of the words "SHOW-ME STATE" in a form prescribed by the director, except that such license plates shall be made with fully reflective material, shall have a white background with a blue and red configuration at the discretion of the director, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Such plates shall also bear an image of the combat action badge.

4. There shall be an additional fee of fifteen dollars charged for each set of special combat action badge license plates issued pursuant to this section. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates issued pursuant to this section.

5. There shall be no limit on the number of license plates any person qualified under this section may obtain so long as each set of license plates issued under this section is issued for vehicles owned solely or jointly by such person.

6. License plates issued pursuant to the provisions of this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle shall be entitled to operate the motor vehicle with such plates for the duration of the year licensed in the event of the death of the qualified person.

7. The director may consult with the Missouri national guard or any other organization which represents the interests of persons receiving combat action badges when formulating the design for the special license plates described in this section.

8. The director shall make all necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2011, shall be invalid and void.

**301.3161. CASS COUNTY — THE BURNT DISTRICT SPECIAL LICENSE PLATE AUTHORIZED, FEE.** — 1. Any person may apply for special motor vehicle license plates for any vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual contribution of twenty-five dollars to the Cass County collector of revenue. Any contribution derived from this section, except reasonable administrative costs, shall be distributed within the county as follows:

- (1) Eighty percent to public safety; and
- (2) Twenty percent to the Cass County parks and recreation department.

2. Upon annual application and payment of twenty-five dollars the county shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen-dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the words "CASS COUNTY — THE BURNT DISTRICT" in the place of the words "SHOW-ME STATE". Such license plates shall be made with fully

reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for personalization of license plates under this section.

3. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2011, shall be invalid and void.

**301.4006. NIXA EDUCATION FOUNDATION SPECIAL LICENSE PLATE AUTHORIZED, FEE.**

— 1. Notwithstanding any other provision of law, any person, after an annual payment of an emblem-use fee to the Nixa Education Foundation, may receive personalized speciality license plates for any vehicle owned, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. The Nixa Education Foundation hereby authorizes the use of its official emblem to be affixed on multi-year personalized speciality license plates as provided in this section. Any contribution to the Nixa Education Foundation derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Nixa Education Foundation. Any person may annually apply for the use of the emblem.

2. Upon annual application and payment of a fifteen dollar emblem-use contribution to the Nixa Education Foundation, the Nixa Education Foundation shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the vehicle owner to the director of revenue at the time of registration. Upon presentation of the annual emblem-use authorization statement and payment of a fifteen dollar fee in addition to the regular registration fees, and presentation of any documents which may be required by law, the director of revenue shall issue to the vehicle owner a personalized speciality license plate which shall bear the emblem of the Nixa Education Foundation. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. In addition, upon each set of license plates shall be inscribed, in lieu of the words "SHOW-ME STATE", the words "NIXA EDUCATION FOUNDATION". Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalized specialty plates issued under this section.

3. A vehicle owner who was previously issued a plate with the Nixa Education Foundation's emblem authorized by this section, but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Nixa Education Foundation's emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms required by this section.

4. Prior to the issuance of a Nixa Education Foundation speciality plate authorized under this section, the department of revenue must be in receipt of an application, as prescribed by the director, which shall be accompanied by a list of at least two hundred potential applicants who plan to purchase the speciality plate, the proposed art design for the specialty license plate, and an application fee, not to exceed five thousand dollars, to

defray the department's cost for issuing, developing, and programming the implementation of the specialty plate. Once the plate design is approved, the director of revenue shall not authorize the manufacture of the material to produce such personalized specialty license plates with the individual seal, logo, or emblem until such time as the director has received two hundred applications, the fifteen dollar specialty plate fee per application, and emblem-use statements, if applicable, and other required documents or fees for such plates.

**301.4035. DON'T TREAD ON ME SPECIAL LICENSE PLATE AUTHORIZED.** — Any person may apply for special "Don't Tread on Me" motor vehicle license plates for any vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. Such person shall make application for the special license plates on a form provided by the director of revenue. The director shall then issue license plates bearing letters or numbers or a combination thereof as determined by the advisory committee established in section 301.129, with the words "DON'T TREAD ON ME" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

Approved July 8, 2011

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#### HB 315 [HCS HB 315]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Changes the provisions of the Revised Statutes of Missouri that have been enacted in more than one bill so that there is only one version of a statute**

AN ACT to repeal sections 144.018 and 144.019, RSMo, and section 32.125 as enacted by house substitute for senate bill no. 374, eighty-eighth general assembly, first regular session, section 52.315 as enacted by house committee substitute for senate committee substitute for senate bill no. 497, ninety-fourth general assembly, first regular session, section 67.281 as enacted by conference committee substitute for senate bill no. 513, ninety-fifth general assembly, first regular session, section 67.1305 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 58 merged with conference committee substitute for house committee substitute for senate substitute for senate committee substitute for senate bill no. 210 merged with conference committee substitute for house committee substitute for senate substitute for senate bill no. 343, ninety-third general assembly, first regular session, section 91.055 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house bill no. 450, ninetieth general assembly, first regular session, section 115.348 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 58, ninety-third general assembly, first regular session, section 135.100 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 701, ninetieth general assembly, first regular session, section 135.100 as enacted by conference committee substitute for house substitute for house committee substitute for senate bill no. 827, eighty-ninth general assembly, second regular

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session, section 135.200 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 701, ninetieth general assembly, first regular session, section 135.200 as enacted by conference committee substitute for house committee substitute for senate bill no. 1, eighty-ninth general assembly, second extraordinary session, section 135.200 as enacted by senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 1656, eighty-ninth general assembly, second regular session, section 141.550 as enacted by conference committee substitute for house substitute for house committee substitute for senate committee substitute for senate bill no. 894, ninetieth general assembly, second regular session, section 171.035 as enacted by conference committee substitute for house committee substitute for senate bill no. 376, ninety-fourth general assembly, first regular session, section 171.035 as enacted by house committee substitute for house bill no. 678, ninety-fourth general assembly, first regular session, section 217.777 as enacted by senate committee substitute for senate bill no. 430, eighty-ninth general assembly, first regular session, section 227.381 as enacted by house bill no. 1488, ninety-third general assembly, second regular session, section 228.362 as enacted by conference committee substitute for house committee substitute for senate committee substitute for senate bill no. 180, eighty-seventh general assembly, first regular session, section 286.060 as enacted by senate committee substitute for house committee substitute for house bills nos. 300 & 95, eighty-eighth general assembly, first regular session, section 301.064 as enacted by house committee substitute for senate substitute for senate bill no. 3, eighty-eighth general assembly, first regular session, section 301.064 as enacted by house bill no. 769, eighty-ninth general assembly, first regular session, section 301.630 as enacted by conference committee substitute for house substitute for house committee substitute for senate bill no. 895, ninety-first general assembly, second regular session, section 304.156 as enacted by senate committee substitute for house bill no. 996 and house bill no. 1142 and house committee substitute for house bill no. 1201 and house bill no. 1489, ninety-second general assembly, second regular session, section 304.678 as enacted by house committee substitute for senate committee substitute for senate bill no. 372, ninety-third general assembly, first regular session, section 321.701 as enacted by conference committee substitute no. 2 for senate substitute no. 2 for house committee substitute for house bills nos. 484, 199 & 72, eighty-eighth general assembly, first regular session, section 321.714 as enacted by senate substitute for senate committee substitute for house committee substitute for house bills nos. 452, 203, 377, 472, 473, 556 & 647, eighty-eighth general assembly, first regular session, section 324.712 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 567, ninety-first general assembly, first regular session, section 335.067 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 780, ninety-fourth general assembly, first regular session, section 339.040 as enacted by conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bill no. 754, ninety-fifth general assembly, second regular session, section 361.170 as enacted by house committee substitute for house bill no. 379, ninety-third general assembly, first regular session, section 370.107 as enacted by senate bill no. 318, ninety-third general assembly, first regular session, section 376.1500 as enacted by senate substitute no. 2 for senate committee substitute for house committee substitute for house bill no. 818, ninety-fourth general assembly, first regular session, section 393.906 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house bill no. 450, ninetieth general assembly, first regular session, section 393.921 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house bill no. 450, ninetieth general assembly, first regular session, section 441.236 as enacted by house substitute for house committee substitute for senate substitute

for senate committee substitute for senate bills nos. 89 & 37, ninety-first general assembly, first regular session, section 470.270 as enacted by conference committee substitute for house substitute for house committee substitute for senate substitute for senate bill no. 1248, ninety-first general assembly, second regular session, section 565.082 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 62, ninety-fifth general assembly, first regular session, section 644.031 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house bill no. 450, ninetieth general assembly, first regular session, and section 644.568 as enacted by house substitute for house committee substitute for senate substitute for senate committee substitute for senate bills nos. 160 & 82, ninetieth general assembly, first regular session, and to enact in lieu thereof four new sections for the sole purpose of repealing statutes with multiple versions.

## SECTION

- A. Enacting clause.
- 135.100. Definitions.
- 135.100. Definitions.
- 135.200. Definitions.
- 135.200. Definitions.
- 135.200. Definitions.
- 144.018. Resale of tangible personal property, exempt or excluded from sales and use tax, when — intent of exclusion.
- 301.064. Land improvement contractors' commercial motor vehicles, registration, fee — license plates.
- 301.064. Land improvement contractors' commercial motor vehicles, registration, fee — license plates.
- 32.125. Rules and regulations, promulgation, procedures.
- 52.315. Monthly deposits in tax maintenance fund — additional uses of money — audit of fund.
- 67.281. Installation of fire sprinklers to be offered to purchaser by builder of certain dwellings — purchaser may decline — expiration date.
- 67.1305. Retail sales tax may be imposed in lieu of certain local economic development sales tax — ballot language — collection and distribution of moneys — trust fund and board to be established — repeal of tax, procedure.
- 91.055. Customers may choose to maintain municipal water service despite claim of exclusive right by public water supply district (Jackson County).
- 115.348. Finding of guilt or plea under federal laws, disqualification for elective public office.
- 141.550. Conduct of sale — interests conveyed — special sale procedures for Certain counties, certain owners prohibited from bidding — cost of publication (first class charter counties, and Clay and Buchanan counties).
- 144.019. Resale of tangible personal property, exempt or excluded from sales and use tax, when — intent of exclusion.
- 171.035. Make-up days not required, when. Make-up days, exemption from requirement for schools in a declared federal disaster area, limitation.
- 171.035. Make-up days not required, when. Make-up days, exemption from requirement for schools in a declared federal disaster area, limitation.
- 217.777. Community corrections program alternative for eligible offenders, purpose — operation — rules.
- 227.381. Officer Thomas G. Smith Jr. Memorial Highway designated for a portion of I-55 in St. Louis County.
- 228.362. Use of road allowed, when — damages for use allowed, when — abandonment of proceedings, effect.
- 286.060. Labor and industrial relations commission, powers and duties — rules.
- 301.630. Lien or encumbrance, assignment, procedure, effect of — perfection of assignment, how, fee — form for notice of electronic certificate.
- 304.156. Notice to towing company, owner or lienholder, when — storage charges, when authorized — search of vehicle for ownership documents — petition, determination of wrongful taking — possessory lien, new title, how issued — sale of abandoned property by municipality or county — towing company, new title when.
- 304.678. Distance to be maintained when overtaking a bicycle — violation, penalty.
- 321.701. Members of board subject to recall — exceptions.
- 321.714. Certification of petition by election authority, content, election to be held — candidacy nomination filed — resignation by board member, recall to be removed from ballot — resigned board member may not fill vacancy.
- 324.712. Certificate of insurance required.
- 335.067. Impaired nurse program may be established by the board — purpose of program — contracts — immunity from liability, when — confidentiality of records.
- 339.040. Licenses granted to whom — examination — qualifications — fee — temporary broker's license, when — renewal, requirements.
- 361.170. Expenses of examination, how paid — salary schedule for division employees to be maintained — division of finance fund, created, uses, transfers to general revenue fund, when.
- 370.107. Annual fee — how computed — division of credit unions fund, created, uses — salary schedule of division employees to be maintained.
- 376.1500. Definitions.
- 393.906. Powers and duties.



- 393.921. Members must use services of nonprofit water company if available — membership not transferable, exception — meetings, how called, notice, procedure.
- 441.236. Disclosures required for transfer of property where methamphetamine production occurred.
- 470.270. Money or effects involved in litigation — disposition — unclaimed property, state may bring action to recover, when, exceptions.
- 565.082. Assault of a law enforcement officer, corrections officer, emergency personnel, highway worker, or probation and parole officer in the second degree, definition, penalty.
- 644.031. Storm water control, first class counties, Kansas City and St. Louis — distribution of funds — plan required — contracts for construction to be made within eighteen months — unused funds returned to clean water commission — redistribution of fund to all eligible cities and counties — state to pay one-third of cost — distribution directly to districts in certain cities and counties.
- 644.568. Commissioners may borrow additional \$10,000,000 for rural water and sewer project grants and loans.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 144.018 and 144.019, RSMo, and section 32.125 as enacted by house substitute for senate bill no. 374, eighty-eighth general assembly, first regular session, section 52.315 as enacted by house committee substitute for senate committee substitute for senate bill no. 497, ninety-fourth general assembly, first regular session, section 67.281 as enacted by conference committee substitute for senate bill no. 513, ninety-fifth general assembly, first regular session, section 67.1305 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 58 merged with conference committee substitute for house committee substitute for senate substitute for senate committee substitute for senate bill no. 210 merged with conference committee substitute for house committee substitute for senate substitute for senate bill no. 343, ninety-third general assembly, first regular session, section 91.055 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house bill no. 450, ninetieth general assembly, first regular session, section 115.348 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 58, ninety-third general assembly, first regular session, section 135.100 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 701, ninetieth general assembly, first regular session, section 135.100 as enacted by conference committee substitute for house substitute for house committee substitute for senate bill no. 827, eighty-ninth general assembly, second regular session, section 135.200 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 701, ninetieth general assembly, first regular session, section 135.200 as enacted by conference committee substitute for house committee substitute for senate bill no. 1, eighty-ninth general assembly, second extraordinary session, section 135.200 as enacted by senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 1656, eighty-ninth general assembly, second regular session, section 141.550 as enacted by conference committee substitute for house substitute for house committee substitute for senate committee substitute for senate bill no. 894, ninetieth general assembly, second regular session, section 171.035 as enacted by conference committee substitute for house committee substitute for senate bill no. 376, ninety-fourth general assembly, first regular session, section 171.035 as enacted by house committee substitute for house bill no. 678, ninety-fourth general assembly, first regular session, section 217.777 as enacted by senate committee substitute for senate bill no. 430, eighty-ninth general assembly, first regular session, section 227.381 as enacted by house bill no. 1488, ninety-third general assembly, second regular session, section 228.362 as enacted by conference committee substitute for house committee substitute for senate committee substitute for senate bill no. 180, eighty-seventh general assembly, first regular session, section 286.060 as enacted by senate committee substitute for house committee substitute for house bills nos. 300 & 95, eighty-eighth general assembly, first regular session, section 301.064 as enacted by house committee substitute for senate substitute for senate bill no. 3, eighty-eighth

general assembly, first regular session, section 301.064 as enacted by house bill no. 769, eighty-ninth general assembly, first regular session, section 301.630 as enacted by conference committee substitute for house substitute for house committee substitute for senate bill no. 895, ninety-first general assembly, second regular session, section 304.156 as enacted by senate committee substitute for house bill no. 996 and house bill no. 1142 and house committee substitute for house bill no. 1201 and house bill no. 1489, ninety-second general assembly, second regular session, section 304.678 as enacted by house committee substitute for senate committee substitute for senate bill no. 372, ninety-third general assembly, first regular session, section 321.701 as enacted by conference committee substitute no. 2 for senate substitute no. 2 for house committee substitute for house bills nos. 484, 199 & 72, eighty-eighth general assembly, first regular session, section 321.714 as enacted by senate substitute for senate committee substitute for house committee substitute for house bills nos. 452, 203, 377, 472, 473, 556 & 647, eighty-eighth general assembly, first regular session, section 324.712 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 567, ninety-first general assembly, first regular session, section 335.067 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 780, ninety-fourth general assembly, first regular session, section 339.040 as enacted by conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bill no. 754, ninety-fifth general assembly, second regular session, section 361.170 as enacted by house committee substitute for house bill no. 379, ninety-third general assembly, first regular session, section 370.107 as enacted by senate bill no. 318, ninety-third general assembly, first regular session, section 376.1500 as enacted by senate substitute no. 2 for senate committee substitute for house committee substitute for house bill no. 818, ninety-fourth general assembly, first regular session, section 393.906 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house bill no. 450, ninetieth general assembly, first regular session, section 393.921 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house bill no. 450, ninetieth general assembly, first regular session, section 441.236 as enacted by house substitute for house committee substitute for senate substitute for senate committee substitute for senate bills nos. 89 & 37, ninety-first general assembly, first regular session, section 470.270 as enacted by conference committee substitute for house substitute for house committee substitute for senate substitute for senate bill no. 1248, ninety-first general assembly, second regular session, section 565.082 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 62, ninety-fifth general assembly, first regular session, section 644.031 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house bill no. 450, ninetieth general assembly, first regular session, and section 644.568 as enacted by house substitute for house committee substitute for senate substitute for senate committee substitute for senate bills nos. 160 & 82, ninetieth general assembly, first regular session, are repealed and four new sections enacted in lieu thereof, to be known as sections 135.100, 135.200, 144.018, and 301.064, to read as follows:

**135.100. DEFINITIONS.** — As used in sections 135.100 to 135.150 the following terms shall mean:

- (1) "Commencement of commercial operations" shall be deemed to occur during the first taxable year for which the new business facility is first available for use by the taxpayer, or first capable of being used by the taxpayer, in the revenue-producing enterprise in which the taxpayer intends to use the new business facility;
- (2) "Existing business facility", any facility in this state which was employed by the taxpayer claiming the credit in the operation of a revenue-producing enterprise immediately prior to an expansion, acquisition, addition, or replacement;

(3) "Facility", any building used as a revenue-producing enterprise located within the state, including the land on which the facility is located and all machinery, equipment and other real and depreciable tangible personal property acquired for use at and located at or within such facility and used in connection with the operation of such facility;

(4) **"NAICS", the North American Industrial Classification System as such classifications are defined in the 2007 edition of the North American Industrial Classification System;**

(5) "New business facility", a facility which satisfies the following requirements:

(a) Such facility is employed by the taxpayer in the operation of a revenue-producing enterprise. Such facility shall not be considered a new business facility in the hands of the taxpayer if the taxpayer's only activity with respect to such facility is to lease it to another person or persons. If the taxpayer employs only a portion of such facility in the operation of a revenue-producing enterprise, and leases another portion of such facility to another person or persons or does not otherwise use such other portions in the operation of a revenue-producing enterprise, the portion employed by the taxpayer in the operation of a revenue-producing enterprise shall be considered a new business facility, if the requirements of paragraphs (b), (c), (d) and (e) of this subdivision are satisfied;

(b) Such facility is acquired by, or leased to, the taxpayer after December 31, 1983. A facility shall be deemed to have been acquired by, or leased to, the taxpayer after December 31, 1983, if the transfer of title to the taxpayer, the transfer of possession pursuant to a binding contract to transfer title to the taxpayer, or the commencement of the term of the lease to the taxpayer occurs after December 31, 1983, or, if the facility is constructed, erected or installed by or on behalf of the taxpayer, such construction, erection or installation is commenced after December 31, 1983;

(c) If such facility was acquired by the taxpayer from another person or persons and such facility was employed immediately prior to the transfer of title to such facility to the taxpayer, or to the commencement of the term of the lease of such facility to the taxpayer, by any other person or persons in the operation of a revenue-producing enterprise, the operation of the same or a substantially similar revenue-producing enterprise is not continued by the taxpayer at such facility;

(d) Such facility is not a replacement business facility, as defined in subdivision [(10)] **(11)** of this section; and

(e) The new business facility investment exceeds one hundred thousand dollars during the tax period in which the credits are claimed;

[(5)] **(6)** "New business facility employee", a person employed by the taxpayer in the operation of a new business facility during the taxable year for which the credit allowed by section 135.110 is claimed, except that truck drivers and rail and barge vehicle operators shall not constitute new business facility employees. A person shall be deemed to be so employed if such person performs duties in connection with the operation of the new business facility on:

(a) A regular, full-time basis; or

(b) A part-time basis, provided such person is customarily performing such duties an average of at least twenty hours per week; or

(c) A seasonal basis, provided such person performs such duties for at least eighty percent of the season customary for the position in which such person is employed;

[(6)] **(7)** "New business facility income", the Missouri taxable income, as defined in chapter 143, derived by the taxpayer from the operation of the new business facility. For the purpose of apportionment as prescribed in this subdivision, the term "Missouri taxable income" means, in the case of insurance companies, direct premiums as defined in chapter 148. If a taxpayer has income derived from the operation of a new business facility as well as from other activities conducted within this state, the Missouri taxable income derived by the taxpayer from the operation of the new business facility shall be determined by multiplying the taxpayer's Missouri taxable income, computed in accordance with chapter 143, or in the case of an insurance company, computed in

accordance with chapter 148, by a fraction, the numerator of which is the property factor, as defined in paragraph (a) of this subdivision, plus the payroll factor, as defined in paragraph (b) of this subdivision, and the denominator of which is two:

(a) The property factor is a fraction, the numerator of which is the new business facility investment certified for the tax period, and the denominator of which is the average value of all the taxpayer's real and depreciable tangible personal property owned or rented and used in this state during the tax period. The average value of all such property shall be determined as provided in chapter 32;

(b) The payroll factor is a fraction, the numerator of which is the total amount paid during the tax period by the taxpayer for compensation to persons qualifying as new business facility employees, as determined by subsection 4 of section 135.110, at the new business facility, and the denominator of which is the total amount paid in this state during the tax period by the taxpayer for compensation. The compensation paid in this state shall be determined as provided in chapter 32. For the purpose of this subdivision, "other activities conducted within this state" shall include activities previously conducted at the expanded, acquired or replaced facility at any time during the tax period immediately prior to the tax period in which commencement of commercial operations occurred;

[(7)] (8) "New business facility investment", the value of real and depreciable tangible personal property, acquired by the taxpayer as part of the new business facility, which is used by the taxpayer in the operation of the new business facility, during the taxable year for which the credit allowed by section 135.110 is claimed, except that trucks, truck-trailers, truck semitrailers, rail vehicles, barge vehicles, aircraft and other rolling stock for hire, track, switches, barges, bridges, tunnels and rail yards and spurs shall not constitute new business facility investments. The total value of such property during such taxable year shall be:

(a) Its original cost if owned by the taxpayer; or

(b) Eight times the net annual rental rate, if leased by the taxpayer. The net annual rental rate shall be the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The new business facility investment shall be determined by dividing by twelve the sum of the total value of such property on the last business day of each calendar month of the taxable year. If the new business facility is in operation for less than an entire taxable year, the new business facility investment shall be determined by dividing the sum of the total value of such property on the last business day of each full calendar month during the portion of such taxable year during which the new business facility was in operation by the number of full calendar months during such period;

[(8)] (9) "Office", a regional, national or international headquarters, a telemarketing operation, a computer operation, an insurance company, a passenger transportation ticket/reservation system or a credit card billing and processing center. For the purposes of this subdivision, "headquarters" means the administrative management of at least four integrated facilities operated by the taxpayer or related taxpayer. An office, as defined in this subdivision, when established must create and maintain positions for a minimum number of twenty-five new business facility employees as defined in subdivision [(5)] (6) of this section;

[(9)] (10) "Related taxpayer" shall mean:

(a) A corporation, partnership, trust or association controlled by the taxpayer;

(b) An individual, corporation, partnership, trust or association in control of the taxpayer; or

(c) A corporation, partnership, trust or association controlled by an individual, corporation, partnership, trust or association in control of the taxpayer. For the purposes of sections 135.100 to 135.150, "control of a corporation" shall mean ownership, directly or indirectly, of stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote; "control of a partnership or association" shall mean ownership of at least fifty percent of the capital or profits interest in such partnership or association; and "control of a trust" shall mean ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal

or income of such trust; ownership shall be determined as provided in Section 318 of the U.S. Internal Revenue Code;

[(10)] **(11)** "Replacement business facility", a facility otherwise described in subdivision [(4)] **(3)** of this section, hereafter referred to in this subdivision as "new facility", which replaces another facility, hereafter referred to in this subdivision as "old facility", located within the state, which the taxpayer or a related taxpayer previously operated but discontinued operating on or before the close of the first taxable year in which the credit allowed by this section is claimed. A new facility shall be deemed to replace an old facility if the following conditions are met:

(a) The old facility was operated by the taxpayer or a related taxpayer during the taxpayer's or related taxpayer's taxable period immediately preceding the taxable year in which commencement of commercial operations occurs at the new facility; and

(b) The old facility was employed by the taxpayer or a related taxpayer in the operation of a revenue-producing enterprise and the taxpayer continues the operation of the same or substantially similar revenue-producing enterprise at the new facility. Notwithstanding the preceding provisions of this subdivision, a facility shall not be considered a replacement business facility if the taxpayer's new business facility investment, as computed in subsection 5 of section 135.110, in the new facility during the tax period in which the credits allowed in sections 135.110, 135.225 and 135.235 and the exemption allowed in section 135.220 are claimed exceed one million dollars or, if less, two hundred percent of the investment in the old facility by the taxpayer or related taxpayer, and if the total number of employees at the new facility exceeds the total number of employees at the old facility by at least two except that the total number of employees at the new facility exceeds the total number of employees at the old facility by at least twenty-five if an office as defined in subdivision [(8)] **(9)** of this section is established by a revenue-producing enterprise other than a revenue-producing enterprise defined in paragraphs (a) to (g) and (i) to (l) of subdivision [(11)] **(12)** of this section;

[(11)] **(12)** "Revenue-producing enterprise" means:

- (a) Manufacturing activities classified as [SICs 20 through 39] **NAICS 31-33**;
- (b) Agricultural activities classified as [SIC 025] **NAICS 11**;
- (c) Rail transportation terminal activities classified as [SIC 4013] **NAICS 482**;
- (d) Motor freight transportation terminal activities classified as [SIC 4231] **NAICS 484 and NAICS 4884**;
- (e) Public warehousing and storage activities classified as [SICs 422 and 423 except SIC 4221] **NAICS 493**, miniwarehouse warehousing and warehousing self-storage;
- (f) Water transportation terminal activities classified as [SIC 4491] **NAICS 4832**;
- (g) Airports, flying fields, and airport terminal services classified as [SIC 4581] **NAICS 481**;
- (h) Wholesale trade activities classified as [SICs 50 and 51] **NAICS 42**;
- (i) Insurance carriers activities classified as [SICs 631, 632 and 633] **NAICS 524**;
- (j) Research and development activities classified as [SIC 873, except 8733] **NAICS 5417**;
- (k) Farm implement dealer activities classified as [SIC 5999] **NAICS 42382**;
- (l) Interexchange telecommunications services as defined in subdivision (20) of section 386.020 or training activities conducted by an interexchange telecommunications company as defined in subdivision (19) of section 386.020;
- (m) Recycling activities classified as [SIC 5093] **NAICS 42393**;
- (n) Office activities as defined in subdivision [(8)] **(9)** of this section, notwithstanding [SIC] **NAICS** classification;
- (o) Mining activities classified as [SICs 10 through 14] **NAICS 21**;
- (p) Computer programming, data processing and other computer-related activities classified as [SIC 737] **NAICS 5415**;
- (q) The administrative management of any of the foregoing activities; or
- (r) Any combination of any of the foregoing activities;

[(12)] (13) "Same or substantially similar revenue-producing enterprise", a revenue-producing enterprise in which the nature of the products produced or sold, or activities conducted, are similar in character and use or are produced, sold, performed or conducted in the same or similar manner as in another revenue-producing enterprise;

[(13)] "SIC", the standard industrial classification as such classifications are defined in the 1987 edition of the Standard Industrial Classification Manual as prepared by the Executive Office of the President, Office of Management and Budget;]

(14) "Taxpayer", an individual proprietorship, corporation described in section 143.441 or 143.471, and partnership or an insurance company subject to the tax imposed by chapter 148, or in the case of an insurance company exempt from the thirty-percent employee requirement of section 135.230, to any obligation imposed pursuant to section 375.916.

**[135.100. DEFINITIONS.** — As used in sections 135.100 to 135.150 the following terms shall mean:

(1) "Commencement of commercial operations" shall be deemed to occur during the first taxable year for which the new business facility is first available for use by the taxpayer, or first capable of being used by the taxpayer, in the revenue-producing enterprise in which the taxpayer intends to use the new business facility;

(2) "Existing business facility", any facility in this state which was employed by the taxpayer claiming the credit in the operation of a revenue-producing enterprise immediately prior to an expansion, acquisition, addition, or replacement;

(3) "Facility", any building used as a revenue-producing enterprise located within the state, including the land on which the facility is located and all machinery, equipment and other real and depreciable tangible personal property acquired for use at and located at or within such facility and used in connection with the operation of such facility;

(4) "New business facility", a facility which satisfies the following requirements:

(a) Such facility is employed by the taxpayer in the operation of a revenue-producing enterprise. Such facility shall not be considered a new business facility in the hands of the taxpayer if the taxpayer's only activity with respect to such facility is to lease it to another person or persons. If the taxpayer employs only a portion of such facility in the operation of a revenue-producing enterprise, and leases another portion of such facility to another person or persons or does not otherwise use such other portions in the operation of a revenue-producing enterprise, the portion employed by the taxpayer in the operation of a revenue-producing enterprise shall be considered a new business facility, if the requirements of paragraphs (b), (c), (d) and (e) of this subdivision are satisfied;

(b) Such facility is acquired by, or leased to, the taxpayer after December 31, 1983. A facility shall be deemed to have been acquired by, or leased to, the taxpayer after December 31, 1983, if the transfer of title to the taxpayer, the transfer of possession pursuant to a binding contract to transfer title to the taxpayer, or the commencement of the term of the lease to the taxpayer occurs after December 31, 1983, or, if the facility is constructed, erected or installed by or on behalf of the taxpayer, such construction, erection or installation is commenced after December 31, 1983;

(c) If such facility was acquired by the taxpayer from another person or persons and such facility was employed immediately prior to the transfer of title to such facility to the taxpayer, or to the commencement of the term of the lease of such facility to the taxpayer, by any other person or persons in the operation of a revenue-producing enterprise, the operation of the same or a substantially similar revenue-producing enterprise is not continued by the taxpayer at such facility;

(d) Such facility is not a replacement business facility, as defined in subdivision (10) of this section; and

(e) The new business facility investment exceeds one hundred thousand dollars during the tax period in which the credits are claimed;

(5) "New business facility employee", a person employed by the taxpayer in the operation of a new business facility during the taxable year for which the credit allowed by section 135.110 is claimed, except that truck drivers and rail and barge vehicle operators shall not constitute new business facility employees. A person shall be deemed to be so employed if such person performs duties in connection with the operation of the new business facility on:

(a) A regular, full-time basis; or

(b) A part-time basis, provided such person is customarily performing such duties an average of at least twenty hours per week; or

(c) A seasonal basis, provided such person performs such duties for at least eighty percent of the season customary for the position in which such person is employed;

(6) "New business facility income", the Missouri taxable income, as defined in chapter 143, derived by the taxpayer from the operation of the new business facility. For the purpose of apportionment as prescribed in this subdivision, the term "Missouri taxable income" means, in the case of insurance companies, direct premiums as defined in chapter 148. If a taxpayer has income derived from the operation of a new business facility as well as from other activities conducted within this state, the Missouri taxable income derived by the taxpayer from the operation of the new business facility shall be determined by multiplying the taxpayer's Missouri taxable income, computed in accordance with chapter 143, or in the case of an insurance company, computed in accordance with chapter 148, by a fraction, the numerator of which is the property factor, as defined in paragraph (a) of this subdivision, plus the payroll factor, as defined in paragraph (b) of this subdivision, and the denominator of which is two:

(a) The "property factor" is a fraction, the numerator of which is the new business facility investment certified for the tax period, and the denominator of which is the average value of all the taxpayer's real and depreciable tangible personal property owned or rented and used in this state during the tax period. The average value of all such property shall be determined as provided in chapter 32;

(b) The "payroll factor" is a fraction, the numerator of which is the total amount paid during the tax period by the taxpayer for compensation to persons qualifying as new business facility employees, as determined by subsection 4 of section 135.110, at the new business facility, and the denominator of which is the total amount paid in this state during the tax period by the taxpayer for compensation. The compensation paid in this state shall be determined as provided in chapter 32. For the purpose of this subdivision, "other activities conducted within this state" shall include activities previously conducted at the expanded, acquired or replaced facility at any time during the tax period immediately prior to the tax period in which commencement of commercial operations occurred;

(7) "New business facility investment", the value of real and depreciable tangible personal property, acquired by the taxpayer as part of the new business facility, which is used by the taxpayer in the operation of the new business facility, during the taxable year for which the credit allowed by section 135.110 is claimed, except that trucks, truck-trailers, truck semitrailers, rail and barge vehicles and other rolling stock for hire, track, switches, barges, bridges, tunnels and rail yards and spurs shall not constitute new business facility investments. The total value of such property during such taxable year shall be:

(a) Its original cost if owned by the taxpayer; or

(b) Eight times the net annual rental rate, if leased by the taxpayer. The net annual rental rate shall be the annual rental rate paid by the taxpayer less any annual rental rate

received by the taxpayer from subrentals. The new business facility investment shall be determined by dividing by twelve the sum of the total value of such property on the last business day of each calendar month of the taxable year. If the new business facility is in operation for less than an entire taxable year, the new business facility investment shall be determined by dividing the sum of the total value of such property on the last business day of each full calendar month during the portion of such taxable year during which the new business facility was in operation by the number of full calendar months during such period;

(8) "Office", a regional, national or international headquarters, a telemarketing operation, an insurance company, a passenger transportation ticket/reservation system or a credit card billing and processing center. For the purposes of this subdivision, "headquarters" means the administrative management of at least four integrated facilities operated by the taxpayer or related taxpayer. An office, as defined in this subdivision, when established must create and maintain positions for a minimum number of twenty-five new business facility employees as defined in subdivision (5) of this section;

(9) "Related taxpayer" shall mean:

(a) A corporation, partnership, trust or association controlled by the taxpayer;

(b) An individual, corporation, partnership, trust or association in control of the taxpayer; or

(c) A corporation, partnership, trust or association controlled by an individual, corporation, partnership, trust or association in control of the taxpayer. For the purposes of sections 135.100 to 135.150, "control of a corporation" shall mean ownership, directly or indirectly, of stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote; "control of a partnership or association" shall mean ownership of at least fifty percent of the capital or profits interest in such partnership or association; and "control of a trust" shall mean ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal or income of such trust; ownership shall be determined as provided in Section 318 of the U.S. Internal Revenue Code;

(10) "Replacement business facility", a facility otherwise described in subdivision (4) of this section, hereafter referred to in this subdivision as "new facility", which replaces another facility, hereafter referred to in this subdivision as "old facility", located within the state, which the taxpayer or a related taxpayer previously operated but discontinued operating on or before the close of the first taxable year in which the credit allowed by this section is claimed. A new facility shall be deemed to replace an old facility if the following conditions are met:

(a) The old facility was operated by the taxpayer or a related taxpayer during the taxpayer's or related taxpayer's taxable period immediately preceding the taxable year in which commencement of commercial operations occurs at the new facility; and

(b) The old facility was employed by the taxpayer or a related taxpayer in the operation of a revenue-producing enterprise and the taxpayer continues the operation of the same or substantially similar revenue-producing enterprise at the new facility. Notwithstanding the preceding provisions of this subdivision, a facility shall not be considered a replacement business facility if the taxpayer's new business facility investment, as computed in subsection 5 of section 135.110, in the new facility during the tax period in which the credits allowed in sections 135.110, 135.225 and 135.235 and the exemption allowed in section 135.220 are claimed exceed one million dollars or, if less, two hundred percent of the investment in the old facility by the taxpayer or related taxpayer, and if the total number of employees at the new facility exceeds the total number of employees at the old facility by at least two except that the total number

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of employees at the new facility exceeds the total number of employees at the old facility by at least twenty-five if an office as defined in subdivision (8) of this section is established by a revenue-producing enterprise other than a revenue-producing enterprise defined in paragraphs (a) to (g) and (i) to (l) of subdivision (11) of this section;

(11) "Revenue-producing enterprise" means:

- (a) Manufacturing activities classified as SICs 20 through 39;
- (b) Agricultural activities classified as SIC 025;
- (c) Rail transportation terminal activities classified as SIC 4013;
- (d) Motor freight transportation terminal activities classified as SIC 4231;
- (e) Public warehousing and storage activities classified as SICs 422 and 423 except SIC 4221, miniwarehouse warehousing and warehousing self-storage;
- (f) Water transportation terminal activities classified as SIC 4491;
- (g) Wholesale trade activities classified as SICs 50 and 51;
- (h) Insurance carriers activities classified as SICs 631, 632 and 633;
- (i) Research and development activities classified as SIC 873, except 8733;
- (j) Farm implement dealer activities classified as SIC 5999;
- (k) Interexchange telecommunications services as defined in subdivision (24) or local exchange telecommunications services as defined in subdivision (31) of section 386.020 or training activities conducted by an interexchange telecommunications company or by a local exchange telecommunications company as defined in subdivisions (23) and (30) of section 386.020;
- (l) Recycling activities classified as SIC 5093;
- (m) Office activities as defined in subdivision (8) of this section, notwithstanding SIC classification;
- (n) Mining activities classified as SICs 10 through 14;
- (o) Computer programming, data processing and other computer-related activities classified as SIC 737;
- (p) The administrative management of any of the foregoing activities; or
- (q) Any combination of any of the foregoing activities;

(12) "Same or substantially similar revenue-producing enterprise", a revenue-producing enterprise in which the nature of the products produced or sold, or activities conducted, are similar in character and use or are produced, sold, performed or conducted in the same or similar manner as in another revenue-producing enterprise;

(13) "SIC", the primary standard industrial classification as such classifications are defined in the 1987 edition of the Standard Industrial Classification Manual as prepared by the Executive Office of the President, Office of Management and Budget. For the purpose of this subdivision, "primary" means at least fifty percent of the activities so classified are performed at the new business facility during the taxpayer's tax period in which such tax credits are being claimed;

(14) "Taxpayer", an individual proprietorship, corporation described in section 143.441 or 143.471, and partnership or an insurance company subject to the tax imposed by chapter 148, or in the case of an insurance company exempt from the thirty percent employee requirement of section 135.230, to any obligation imposed pursuant to section 375.916.]

**135.200. DEFINITIONS.** — The following terms, whenever used in sections 135.200 to 135.256, mean:

- (1) "Department", the department of economic development;
- (2) "Director", the director of the department of economic development;
- (3) "Facility", any building used as a revenue-producing enterprise located within an enterprise zone, including the land on which the facility is located and all machinery, equipment

and other real and depreciable tangible personal property acquired for use at and located at or within such facility and used in connection with the operation of such facility;

(4) "Governing authority", the body holding primary legislative authority over a county or incorporated municipality;

(5) **"NAICS", the North American Industrial Classification System as such classifications are defined in the 2007 edition of the North American Industrial Classification System;**

(6) "New business facility" shall have the meaning defined in section 135.100, except that the term "lease" as used therein shall not include the leasing of property defined in paragraph (d) of subdivision [(6)] (7) of this section;

[(6)] (7) "Revenue-producing enterprise", means:

(a) Manufacturing activities classified as [SICs 20 through 39] **NAICS 31-33;**

(b) Agricultural activities classified as [SIC 025] **NAICS 11;**

(c) Rail transportation terminal activities classified as [SIC 4013] **NAICS 482;**

(d) Renting or leasing of residential property to low- and moderate-income persons as defined in federal law, 42 U.S.C. 5302(a)(20);

(e) Motor freight transportation terminal activities classified as [SIC 4231] **NAICS 484 and NAICS 4884;**

(f) Public warehousing and storage activities classified as [SICs 422 and 423 except SIC 4221] **NAICS 493**, miniwarehouse warehousing and warehousing self-storage;

(g) Water transportation terminal activities classified as [SIC 4491] **NAICS 4832;**

(h) Airports, flying fields, and airport terminal services classified as [SIC 4581] **NAICS 481;**

(i) Wholesale trade activities classified as [SICs 50 and 51] **NAICS 42;**

(j) Insurance carriers activities classified as [SICs 631, 632 and 633] **NAICS 524;**

(k) Research and development activities classified as [SIC 873, except 8733] **NAICS 5417;**

(l) Farm implement dealer activities classified as [SIC 5999] **NAICS 42382;**

(m) Employment agency activities classified as [SIC 7361] **NAICS 5613;**

(n) Computer programming, data processing and other computer-related activities classified as [SIC 737] **NAICS 518;**

(o) Health service activities classified as [SICs 801, 802, 803, 804, 806, 807, 8092 and 8093] **NAICS 621, 622, and 623;**

(p) Interexchange telecommunications as defined in subdivision (20) of section 386.020 or training activities conducted by an interexchange telecommunications company as defined in subdivision (19) of section 386.020;

(q) Recycling activities classified as [SIC 5093] **NAICS 42393;**

(r) Banking activities classified as [SICs 602 and 603] **NAICS 522;**

(s) Office activities as defined in subdivision [(8)] (9) of section 135.100, notwithstanding [SIC] **NAICS** classification;

(t) Mining activities classified as [SICs 10 through 14] **NAICS 21;**

(u) The administrative management of any of the foregoing activities; or

(v) Any combination of any of the foregoing activities;

[(7)] (8) "Satellite zone", a noncontiguous addition to an existing state designated enterprise zone[;

(8) "SIC", the standard industrial classification as such classifications are defined in the 1987 edition of the Standard Industrial Classification Manual as prepared by the Executive Office of the President, Office of Management and Budget].

**[135.200. DEFINITIONS.** — The following terms, whenever used in sections 135.200 to 135.256, mean:

(1) "Department", the department of economic development;

- (2) "Director", the director of the department of economic development;
- (3) "Facility", any building used as a revenue-producing enterprise located within an enterprise zone, including the land on which the facility is located and all machinery, equipment and other real and depreciable tangible personal property acquired for use at and located at or within such facility and used in connection with the operation of such facility;
- (4) "Governing authority", the body holding primary legislative authority over a county or incorporated municipality;
- (5) "New business facility" shall have the meaning defined in section 135.100, except that the term "lease" as used therein shall not include the leasing of property defined in paragraph (d) of subdivision (6) of this section;
- (6) "Revenue-producing enterprise", means:
  - (a) Manufacturing activities classified as SICs 20 through 39;
  - (b) Agricultural activities classified as SIC 025;
  - (c) Rail transportation terminal activities classified as SIC 4013;
  - (d) Renting or leasing of residential property to low and moderate income persons as defined in federal law, 42 U.S.C. 5302(a)(20);
  - (e) Motor freight transportation terminal activities classified as SIC 4231;
  - (f) Public warehousing and storage activities classified as SICs 422 and 423 except SIC 4221, miniwarehouse warehousing and warehousing self-storage;
  - (g) Water transportation terminal activities classified as SIC 4491;
  - (h) Wholesale trade activities classified as SICs 50 and 51;
  - (i) Insurance carriers activities classified as SICs 631, 632 and 633;
  - (j) Research and development activities classified as SIC 873, except 8733;
  - (k) Farm implement dealer activities classified as SIC 5999;
  - (l) Employment agency activities classified as SIC 7361;
  - (m) Computer programming, data processing and other computer-related activities classified as SIC 737;
  - (n) Health service activities classified as SICs 801, 802, 803, 804, 806, 807, 8092 and 8093;
  - (o) Interexchange telecommunications as defined in subdivision (20) of section 386.020 or training activities conducted by an interexchange telecommunications company as defined in subdivision (19) of section 386.020;
  - (p) Recycling activities classified as SIC 5093;
  - (q) Banking activities classified as SICs 602 and 603;
  - (r) Office activities as defined in subdivision (8) of section 135.100, notwithstanding SIC classification;
  - (s) Mining activities classified as SICs 10 through 14;
  - (t) The administrative management of any of the foregoing activities; or
  - (u) Any combination of any of the foregoing activities;
- (7) "Satellite zone", a noncontiguous addition to an existing state designated enterprise zone;
- (8) "SIC", the primary standard industrial classification as such classifications are defined in the 1987 edition of the Standard Industrial Classification Manual as prepared by the Executive Office of the President, Office of Management and Budget. For the purpose of this subdivision, "primary" means at least fifty percent of the activities so classified are performed at the new business facility during the taxpayer's tax period in which such tax credits are being claimed.]

**[135.200. DEFINITIONS.** — The following terms, whenever used in sections 135.200 to 135.256, mean:

- (1) "Department", the department of economic development;
  - (2) "Director", the director of the department of economic development;
  - (3) "Facility", any building used as a revenue-producing enterprise located within an enterprise zone, including the land on which the facility is located and all machinery, equipment and other real and depreciable tangible personal property acquired for use at and located at or within such facility and used in connection with the operation of such facility;
  - (4) "Governing authority", the body holding primary legislative authority over a county or incorporated municipality;
  - (5) "New business facility" shall have the meaning defined in section 135.100, except that the term "lease" as used therein shall not include the leasing of property defined in paragraph (d) of subdivision (6) of this section;
  - (6) "Revenue-producing enterprise" means:
    - (a) Manufacturing activities classified as SICs 20 through 39;
    - (b) Agricultural activities classified as SIC 025;
    - (c) Rail transportation terminal activities classified as SIC 4013;
    - (d) Renting or leasing of residential property to low and moderate income persons as defined in federal law, 42 U.S.C. 5302(a)(20);
    - (e) Motor freight transportation terminal activities classified as SIC 4231;
    - (f) Public warehousing and storage activities classified as SICs 422 and 423 except SIC 4221, miniwarehouse warehousing and warehousing self-storage;
    - (g) Water transportation terminal activities classified as SIC 4491;
    - (h) Wholesale trade activities classified as SICs 50 and 51;
    - (i) Insurance carriers activities classified as SICs 631, 632 and 633;
    - (j) Research and development activities classified as SIC 873, except 8733;
    - (k) Farm implement dealer activities classified as SIC 5999;
    - (l) Employment agency activities classified as SIC 7361;
    - (m) Computer programming, data processing and other computer-related activities classified as SIC 737;
    - (n) Health service activities classified as SICs 801, 802, 803, 804, 806, 807, 8092 and 8093;
    - (o) Interexchange telecommunications as defined in subdivision (20) of section 386.020 or training activities conducted by an interexchange telecommunications company as defined in subdivision (19) of section 386.020;
    - (p) Recycling activities classified as SIC 5093;
    - (q) Banking activities classified as SICs 602 and 603;
    - (r) Office activities as defined in subdivision (8) of section 135.100, notwithstanding SIC classification;
    - (s) Mining activities classified as SICs 10 through 14;
    - (t) Photofinishing laboratory activities classified in SIC 7384 and microfilm recording and developing services as contained in SIC classification 7389, provided that each such revenue-producing enterprise employs a minimum of one hundred employees at a single business facility;
    - (u) The administrative management of any of the foregoing activities; or
    - (v) Any combination of any of the foregoing activities;
  - (7) "Satellite zone", a noncontiguous addition to an existing state designated enterprise zone;
  - (8) "SIC", the standard industrial classification as such classifications are defined in the 1987 edition of the Standard Industrial Classification Manual as prepared by the Executive Office of the President, Office of Management and Budget.]
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**144.018. RESALE OF TANGIBLE PERSONAL PROPERTY, EXEMPT OR EXCLUDED FROM SALES AND USE TAX, WHEN — INTENT OF EXCLUSION.** — 1. Notwithstanding any other provision of law to the contrary, except as provided under subsection 2 or 3 of this section, when a purchase of tangible personal property or service subject to tax is made for the purpose of resale, such purchase shall be either exempt or excluded under this chapter if the subsequent sale is:

- (1) Subject to a tax in this or any other state;
- (2) For resale;
- (3) Excluded from tax under this chapter;
- (4) Subject to tax but exempt under this chapter; or
- (5) Exempt from the sales tax laws of another state, if the subsequent sale is in such other state. The purchase of tangible personal property by a taxpayer shall not be deemed to be for resale if such property is used or consumed by the taxpayer in providing a service on which tax is not imposed by subsection 1 of section 144.020, except purchases made in fulfillment of any obligation under a defense contract with the United States government.

2. For purposes of subdivision (2) of subsection 1 of section 144.020, a place of amusement, entertainment or recreation, including games or athletic events, shall remit tax on the amount paid for admissions or seating accommodations, or fees paid to, or in such place of amusement, entertainment or recreation. Any subsequent sale of such admissions or seating accommodations shall not be subject to tax if the initial sale was an arms length transaction for fair market value with an unaffiliated entity. If the sale of such admissions or seating accommodations is exempt or excluded from payment of sales and use taxes, the provisions of this subsection shall not require the place of amusement, entertainment, or recreation to remit tax on that sale.

3. For purposes of subdivision (6) of subsection 1 of section 144.020, a hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp, or other place in which rooms, meals, or drinks are regularly served to the public shall remit tax on the amount of sales or charges for all rooms, meals, and drinks furnished at such hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp, or other place in which rooms, meals, or drinks are regularly served to the public. Any subsequent sale of such rooms, meals, or drinks shall not be subject to tax if the initial sale was an arms length transaction for fair market value with an unaffiliated entity. If the sale of such rooms, meals, or drinks is exempt or excluded from payment of sales and use taxes, the provisions of this subsection shall not require the hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp, or other place in which rooms, meals, or drinks are regularly served to the public to remit tax on that sale.

4. The provisions of this section are intended to reject and abrogate earlier case law interpretations of the state's sales and use tax law with regard to sales for resale as extended in *Music City Centre Management, LLC v. Director of Revenue*, 295 S.W.3d 465, (Mo. 2009) and *ICC Management, Inc. v. Director of Revenue*, 290 S.W.3d 699, (Mo. 2009). **The provisions of this section are intended to clarify the exemption or exclusion of purchases for resale from sales and use taxes as originally enacted in this chapter.**

**[301.064. LAND IMPROVEMENT CONTRACTORS' COMMERCIAL MOTOR VEHICLES, REGISTRATION, FEE — LICENSE PLATES.** — 1. The annual registration fee for a land improvement contractors' commercial motor vehicle is three hundred and fifty dollars. The maximum gross weight for which such a vehicle may be registered is seventy-three thousand two hundred and eighty pounds. Transporting for hire by such a motor vehicle is prohibited.

2. Upon application to the director of revenue accompanied by an affidavit signed by the owner or owners stating that the motor vehicle to be licensed as a land improvement contractors' commercial motor vehicle shall not be operated in any manner other than as prescribed in section 301.010, and by the amount of the registration fee

prescribed in subsection 1 of this section, and otherwise complying with the laws relating to the registration and licensing of motor vehicles, the owner or owners shall be issued a distinctive set of land improvement contractors' license plates. The director of revenue shall by regulation determine the characteristic features of land improvement contractors' license plates so that they may be readily identified as such.]

**301.064. LAND IMPROVEMENT CONTRACTORS' COMMERCIAL MOTOR VEHICLES, REGISTRATION, FEE — LICENSE PLATES.** — 1. The annual registration fee for a land improvement contractors' commercial motor vehicle is three hundred and fifty dollars. The maximum gross weight for which such a vehicle may be registered is eighty thousand pounds. Transporting for hire by such a motor vehicle is prohibited.

2. Upon application to the director of revenue accompanied by an affidavit signed by the owner or owners stating that the motor vehicle to be licensed as a land improvement contractors' commercial motor vehicle shall not be operated in any manner other than as prescribed in section 301.010, and by the amount of the registration fee prescribed above, and otherwise complying with the laws relating to the registration and licensing of motor vehicles, the owner or owners shall be issued a set of land improvement contractors' license plates. [The advisory committee established in section 301.129 shall determine the characteristic features of land improvement contractors' license plates so that they may be readily identified as such, except that such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Any rule or portion of a rule promulgated pursuant to sections 301.010, 301.057, 301.058, and 301.064 may be suspended by the committee on administrative rules until such time as the general assembly may by concurrent resolution reinstate such rule.] **The director of revenue shall by regulation determine the characteristic features of land improvement contractors' license plates so that they may be readily identified as such.**

**[32.125. RULES AND REGULATIONS, PROMULGATION, PROCEDURES.** — 1. No rule or portion of a rule promulgated under the authority of this chapter or any provisions of any other chapter by the department of revenue shall become effective until it has been approved by the joint committee on administrative rules in accordance with the procedures provided herein, and the delegation of the legislative authority to enact law by the adoption of such rules is dependent upon the power of the joint committee on administrative rules to review and suspend rules pending ratification by the senate and the house of representatives as provided herein.

2. Upon filing any proposed rule with the secretary of state, the department of revenue shall concurrently submit such proposed rule to the committee, which may hold hearings upon any proposed rule or portion thereof at any time.

3. A final order of rulemaking shall not be filed with the secretary of state until thirty days after such final order of rulemaking has been received by the committee. The committee may hold one or more hearings upon such final order of rulemaking during the thirty-day period. If the committee does not disapprove such order of rulemaking within the thirty-day period, the department of revenue may file such order of rulemaking with the secretary of state and the order of rulemaking shall be deemed approved.

4. The committee may, by majority vote of the members, suspend the order of rulemaking or portion thereof by action taken prior to the filing of the final order of rulemaking only for one or more of the following grounds:

- (1) An absence of statutory authority for the proposed rule;
  - (2) An emergency relating to public health, safety or welfare;
  - (3) The proposed rule is in conflict with state law;
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(4) A substantial change in circumstance since enactment of the law upon which the proposed rule is based.

5. If the committee disapproves any rule or portion thereof, the department of revenue shall not file such disapproved portion of any rule with the secretary of state and the secretary of state shall not publish in the Missouri Register any final order of rulemaking containing the disapproved portion.

6. If the committee disapproves any rule or portion thereof, the committee shall report its findings to the senate and the house of representatives. No rule or portion thereof disapproved by the committee shall take effect so long as the senate and the house of representatives ratify the act of the joint committee by resolution adopted in each house within thirty legislative days after such rule or portion thereof has been disapproved by the joint committee.

7. Upon adoption of a rule as provided herein, any such rule or portion thereof may be suspended or revoked by the general assembly either by bill or, pursuant to section 8, article IV of the constitution, by concurrent resolution upon recommendation of the joint committee on administrative rules. The committee shall be authorized to hold hearings and make recommendations pursuant to the provisions of section 536.037. The secretary of state shall publish in the Missouri Register, as soon as practicable, notice of the suspension or revocation.]

**[52.315. MONTHLY DEPOSITS IN TAX MAINTENANCE FUND — ADDITIONAL USES OF MONEY — AUDIT OF FUND. —** 1. The two-sevenths collected to fund the tax maintenance fund under subdivision (1) of section 52.290 and all moneys collected to fund the tax maintenance fund under subdivision (2) of section 52.290 shall be transmitted monthly for deposit into the tax maintenance fund and used for additional administration and operation costs for the office of collector. Any costs shall include, but shall not be limited to, those costs that require any additional out-of-pocket expense by the office of collector and it may include reimbursement to county general revenue for the salaries of employees of the office of collector for hours worked and any other expenses necessary to conduct and execute the duties and responsibilities of such office.

2. The tax maintenance fund may also be used by the collector for training, purchasing new or upgrading information technology, equipment or other essential administrative expenses necessary to carry out the duties and responsibilities of the office of collector, including anything necessarily pertaining thereto.

3. The collector has the sole responsibility for all expenditures made from the tax maintenance fund and shall approve all expenditures from such fund. All such expenditures from the tax maintenance fund shall not be used to substitute for or subsidize any allocation of county general revenue for the operation of the office of collector.

4. The tax maintenance fund may be audited by the appropriate auditing agency. Any unexpended balance shall be left in the tax maintenance fund, to accumulate from year to year with interest.]

**[67.281. INSTALLATION OF FIRE SPRINKLERS TO BE OFFERED TO PURCHASER BY BUILDER OF CERTAIN DWELLINGS — PURCHASER MAY DECLINE — EXPIRATION DATE. —** On or before the date of entering into a purchase contract, any builder of single-family dwellings or residences or multifamily dwellings of four or fewer units shall offer to any purchaser the option to install or equip such dwellings or residences with a fire sprinkler system at the purchaser's cost. Notwithstanding any other provision of law to the contrary, no code, order, ordinance, rule, regulation, or resolution adopted by any political subdivision shall be construed to deny any purchaser of any such dwelling or

residence the option to choose or decline the installation or equipping of such dwelling or residence with a fire sprinkler system. Any code, order, ordinance, rule, regulation, or resolution adopted by any political subdivision shall include a provision requiring each builder to provide each purchaser of any such dwelling or residence with the option of purchasing a fire sprinkler system for such dwelling or residence. This section shall expire on December 31, 2011.]

**[67.1305. RETAIL SALES TAX MAY BE IMPOSED IN LIEU OF CERTAIN LOCAL ECONOMIC DEVELOPMENT SALES TAX — BALLOT LANGUAGE — COLLECTION AND DISTRIBUTION OF MONEYS — TRUST FUND AND BOARD TO BE ESTABLISHED — REPEAL OF TAX, PROCEDURE. —** 1. As used in this section, the term "city" shall mean any incorporated city, town, or village.

2. In lieu of the sales taxes authorized under sections 67.1300 and 67.1303, the governing body of any city or county may impose, by order or ordinance, a sales tax on all retail sales made in the city or county which are subject to sales tax under chapter 144. The tax authorized in this section shall not be more than one-half of one percent. The order or ordinance imposing the tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at any citywide, county, or state general, primary, or special election a proposal to authorize the governing body to impose a tax under this section. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes. The tax authorized in this section shall not be imposed by any city or county that has imposed a tax under section 67.1300 or 67.1303 unless the tax imposed under those sections has expired or been repealed.

3. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall ..... (insert the name of the city or county) impose a sales tax at a rate of ..... (insert rate of percent) percent for economic development purposes?

☐ YES ☐ NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question, provided that no proposal shall be resubmitted to the voters sooner than twelve months from the date of the submission of the last proposal.

4. All sales taxes collected by the director of revenue under this section on behalf of any county or city or municipality, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, shall be deposited in a special trust fund, which is hereby created, to be known as the "Local Option Economic Development Sales Tax Trust Fund".

5. The moneys in the local option economic development sales tax trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust fund and which was collected in each city or county imposing a sales tax under and pursuant to this section, and the records shall be open to the inspection of officers of the city or county and the public.

6. Not later than the tenth day of each month, the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the city or



county which levied the tax. Such funds shall be deposited with the county treasurer of each such county or the appropriate city or municipal officer in the case of a city or municipal tax, and all expenditures of funds arising from the local option economic development sales tax trust fund shall be in accordance with this section.

7. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any city or county for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such cities and counties.

8. If any county or city or municipality abolishes the tax, the city or county shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such city or county, the director of revenue shall remit the balance in the account to the city or county and close the account of that city or county. The director of revenue shall notify each city or county of each instance of any amount refunded or any check redeemed from receipts due the city or county.

9. Except as modified in and by this section, all provisions of sections 32.085 and 32.087 shall apply to the tax imposed pursuant to this section.

10. (1) No revenue generated by the tax authorized in this section shall be used for any retail development project, except for the redevelopment of downtown areas and historic districts. Not more than twenty-five percent of the revenue generated shall be used annually for administrative purposes, including staff and facility costs.

(2) At least twenty percent of the revenue generated by the tax authorized in this section shall be used solely for projects directly related to long-term economic development preparation, including, but not limited to, the following:

- (a) Acquisition of land;
- (b) Installation of infrastructure for industrial or business parks;
- (c) Improvement of water and wastewater treatment capacity;
- (d) Extension of streets;
- (e) Public facilities directly related to economic development and job creation; and
- (f) Providing matching dollars for state or federal grants relating to such long-term projects.

(3) The remaining revenue generated by the tax authorized in this section may be used for, but shall not be limited to, the following:

- (a) Marketing;
- (b) Providing grants and loans to companies for job training, equipment acquisition, site development, and infrastructures;
- (c) Training programs to prepare workers for advanced technologies and high skill jobs;
- (d) Legal and accounting expenses directly associated with the economic development planning and preparation process; and
- (e) Developing value-added and export opportunities for Missouri agricultural products.

11. All revenue generated by the tax shall be deposited in a special trust fund and shall be used solely for the designated purposes. If the tax is repealed, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes. Any funds in the special trust fund which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other city or county funds.

12. (1) Any city or county imposing the tax authorized in this section shall establish an economic development tax board. The volunteer board shall receive no compensation or operating budget.

(2) The economic development tax board established by a city shall consist of five members, to be appointed as follows:

(a) One member shall be appointed by the school districts included within any economic development plan or area funded by the sales tax authorized in this section. Such member shall be appointed in any manner agreed upon by the affected districts;

(b) Three members shall be appointed by the chief elected officer of the city with the consent of the majority of the governing body of the city; and

(c) One member shall be appointed by the governing body of the county in which the city is located.

(3) The economic development tax board established by a county shall consist of seven members, to be appointed as follows:

(a) One member shall be appointed by the school districts included within any economic development plan or area funded by the sales tax authorized in this section. Such member shall be appointed in any manner agreed upon by the affected districts;

(b) Four members shall be appointed by the governing body of the county; and

(c) Two members from the cities, towns, or villages within the county appointed in any manner agreed upon by the chief elected officers of the cities, towns or villages. Of the members initially appointed, three shall be designated to serve for terms of two years, and the remaining members shall be designated to serve for a term of four years from the date of such initial appointments. Thereafter, the members appointed shall serve for a term of four years, except that all vacancies shall be filled for unexpired terms in the same manner as were the original appointments.

13. The board, subject to approval of the governing body of the city or county, shall consider economic development plans, economic development projects, or designations of an economic development area, and shall hold public hearings and provide notice of any such hearings. The board shall vote on all proposed economic development plans, economic development projects, or designations of an economic development area, and amendments thereto, within thirty days following completion of the hearing on any such plan, project, or designation, and shall make recommendations to the governing body within ninety days of the hearing concerning the adoption of or amendment to economic development plans, economic development projects, or designations of an economic development area. The governing body of the city or county shall have the final determination on use and expenditure of any funds received from the tax imposed under this section.

14. The board may consider and recommend using funds received from the tax imposed under this section for plans, projects, or area designations outside the boundaries of the city or county imposing the tax if, and only if:

(1) The city or county imposing the tax or the state receives significant economic benefit from the plan, project, or area designation; and

(2) The board establishes an agreement with the governing bodies of all cities and counties in which the plan, project, or area designation is located detailing the authority and responsibilities of each governing body with regard to the plan, project, or area designation.

15. Notwithstanding any other provision of law to the contrary, the local option economic development sales tax imposed under this section when imposed within a special taxing district, including but not limited to a tax increment financing district, neighborhood improvement district, or community improvement district, shall be excluded from the calculation of revenues available to such districts, and no revenues

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from any sales tax imposed under this section shall be used for the purposes of any such district unless recommended by the economic development tax board established under this section and approved by the governing body imposing the tax.

16. The board and the governing body of the city or county imposing the tax shall report at least annually to the governing body of the city or county on the use of the funds provided under this section and on the progress of any plan, project, or designation adopted under this section and shall make such report available to the public.

17. Not later than the first day of March each year the department of economic development shall submit to the joint committee on economic development a report which shall include the following information for each project using the tax authorized under this section:

- (1) A statement of its primary economic development goals;
- (2) A statement of the total economic development sales tax revenues received during the immediately preceding calendar year; and
- (3) A statement of total expenditures during the preceding calendar year in each of the following categories:
  - (a) Infrastructure improvements;
  - (b) Land and or buildings, or both;
  - (c) Machinery and equipment;
  - (d) Job training investments;
  - (e) Direct business incentives;
  - (f) Marketing;
  - (g) Administration and legal expenses; and
  - (h) Other expenditures.

18. The governing body of any city or county that has adopted the sales tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the city or county. The ballot of submission shall be in substantially the following form:

Shall ..... (insert the name of the city or county) repeal the sales tax imposed at a rate of ..... (insert rate of percent) percent for economic development purposes?

[ ] YES [ ] NO

If a majority of the votes cast on the proposal are in favor of repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters of the city or county, and the repeal is approved by a majority of the qualified voters voting on the question.

19. If any provision of this section or section 67.1303 or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or application of this section or section 67.1303 which can be given effect without the invalid provision or application, and to this end the provisions of this section and section 67.1303 are declared severable.]

**[91.055. CUSTOMERS MAY CHOOSE TO MAINTAIN MUNICIPAL WATER SERVICE DESPITE CLAIM OF EXCLUSIVE RIGHT BY PUBLIC WATER SUPPLY DISTRICT (JACKSON COUNTY)].** — Other provisions of law to the contrary notwithstanding, in any first class county with a charter form of government and a population greater than six hundred thousand and less than nine hundred thousand persons, any person who, on June

29, 1999, is a water service customer of any municipality located in whole or in part in such county may continue to receive water service from such municipality even in the event that a public water supply district shall claim the exclusive right to provide water service to such person.]

**[115.348. FINDING OF GUILT OR PLEA UNDER FEDERAL LAWS, DISQUALIFICATION FOR ELECTIVE PUBLIC OFFICE. —** No person shall qualify as a candidate for elective public office in the state of Missouri who has been convicted of or pled guilty to a felony or misdemeanor under the federal laws of the United States of America.]

**[141.550. CONDUCT OF SALE — INTERESTS CONVEYED — SPECIAL SALE PROCEDURES FOR CERTAIN COUNTIES, CERTAIN OWNERS PROHIBITED FROM BIDDING — COST OF PUBLICATION (FIRST CLASS CHARTER COUNTIES, AND CLAY AND BUCHANAN COUNTIES). —** 1. The sale shall be conducted, the sheriff's return thereof made, and the sheriff's deed pursuant to the sale executed, all as provided in the case of sales of real estate taken under execution except as otherwise provided in sections 141.210 to 141.810, and provided that such sale need not occur during the term of court or while the court is in session.

2. The following provisions shall apply to any sale pursuant to this section of property located within any municipality contained wholly or partially within a county with a population of over six hundred thousand and less than nine hundred thousand:

(1) The sale shall be held on the day for which it is advertised, between the hours of nine o'clock a.m. and five o'clock p.m. and continued day to day thereafter to satisfy the judgment as to each respective parcel of real estate sold;

(2) The sale shall be conducted publicly, by auction, for ready money. The highest bidder shall be the purchaser unless the highest bid is less than the full amount of all tax bills included in the judgment, interest, penalties, attorney's fees and costs then due thereon. No person shall be eligible to bid at the time of the sale unless such person has, no later than ten days before the sale date, demonstrated to the satisfaction of the official charged by law with conducting the sale that he or she is not the owner of any parcel of real estate in the county which is affected by a tax bill which has been delinquent for more than six months and is not the owner of any parcel of real property with two or more convictions based on violations occurring within a two-year period of the municipality's building or housing codes. A prospective bidder may make such a demonstration by presenting statements from the appropriate collection and code enforcement officials of the municipality.

3. Such sale shall convey the whole interest of every person having or claiming any right, title or interest in or lien upon such real estate, whether such person has answered or not, subject to rights-of-way thereon of public utilities upon which tax has been otherwise paid, and subject to the lien thereon, if any, of the United States of America.

4. The collector shall advance the sums necessary to pay for the publication of all advertisements required by sections 141.210 to 141.810 and shall be allowed credit therefor in his or her accounts with the county. The collector shall give credit in such accounts for all such advances recovered by him or her. Such expenses of publication shall be apportioned pro rata among and taxed as costs against the respective parcels of real estate described in the judgment; provided, however, that none of the costs herein enumerated, including the costs of publication, shall constitute any lien upon the real estate after such sale.]

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**[144.019. RESALE OF TANGIBLE PERSONAL PROPERTY, EXEMPT OR EXCLUDED FROM SALES AND USE TAX, WHEN — INTENT OF EXCLUSION.** — 1. Notwithstanding any other provision of law to the contrary, when a purchase of tangible personal property or service subject to tax is made for the purpose of resale, such purchase is exempt or excluded under this chapter if the subsequent sale is subject to a tax in this or any other state, is for resale, is excluded from tax under this chapter, is subject to tax but exempt under this chapter, or is exempt from the sales tax laws of another state if the subsequent sale is in such other state. The purchase of tangible personal property by a taxpayer shall not be deemed to be for resale if such property is used or consumed by the taxpayer in providing a service on which tax is not imposed by subsection 1 of section 144.020, except purchases made in fulfillment of any obligation under a defense contract with the United States government.

2. For purposes of subdivision (2) of subsection 1 of section 144.020, the operator of a place of amusement, entertainment or recreation, including games or athletic events, must remit tax on the amount paid for admissions or seating accommodations, or fees paid to, or in such place of amusement, entertainment or recreation. Any subsequent sale of such admissions or seating accommodations shall not be subject to tax if the initial sale was an arms length transaction for fair market value with an unaffiliated entity. If the sale of such admissions or seating accommodations is exempt or excluded from payment of sales and use taxes, this provision does not require the place of amusement, entertainment, or recreation to remit tax on that sale.

3. For purposes of subdivision (6) of subsection 1 of section 144.020, the operator of a hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp, or other place in which rooms, meals, or drinks are regularly served to the public must remit tax on the amount of sales or charges for all rooms, meals, and drinks furnished at such hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp, or other place in which rooms, meals, or drinks are regularly served to the public. Any subsequent sale of such rooms, meals, or drinks shall not be subject to tax if the initial sale was an arms length transaction for fair market value with an unaffiliated entity. If the sale of such rooms, meals, or drinks is exempt or excluded from payment of sales and use taxes, this provision does not require the hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp, or other place in which rooms, meals, or drinks are regularly served to the public to remit tax on that sale.

4. The provisions of this section are intended to clarify the exemption or exclusion of purchases for resale from sales and use taxes as originally enacted in this chapter.]

**[171.035. MAKE-UP DAYS NOT REQUIRED, WHEN. MAKE-UP DAYS, EXEMPTION FROM REQUIREMENT FOR SCHOOLS IN A DECLARED FEDERAL DISASTER AREA, LIMITATION.** — Any school district that cancelled classes or dismissed classes early for weather-related reasons for any of its schools for any days from January 11, 2007, to January 22, 2007, shall not be required to make up the days or hours lost during such time. The requirement for scheduling two-thirds of the missed days into the next year's calendar under subsection 1 of section 171.033 shall be waived for the 2007-08 school year.]

**[171.035. MAKE-UP DAYS NOT REQUIRED, WHEN. MAKE-UP DAYS, EXEMPTION FROM REQUIREMENT FOR SCHOOLS IN A DECLARED FEDERAL DISASTER AREA, LIMITATION.** — Except a school district with an assessed valuation of three hundred million dollars or more and with territory in a county of the second classification, no school district with any territory contained in a county declared to be a federal disaster

area on January 16, 2007, that cancelled classes or dismissed classes early for weather-related reasons for any of its schools for any days from January 15 to January 22, 2007, shall be required to make up the days or hours lost during such time. School districts in counties not included in the federal disaster area that have missed eight or more days due to inclement weather during the 2006-07 school year shall not be required to make up the days or hours for six of those days. The requirement for scheduling two-thirds of the missed days into the next year's calendar under subsection 1 of section 171.033 shall be waived for the 2007-08 school year.]

**[217.777. COMMUNITY CORRECTIONS PROGRAM ALTERNATIVE FOR ELIGIBLE OFFENDERS, PURPOSE — OPERATION — RULES. — 1.** The department shall administer a community corrections program to encourage the establishment of local sentencing alternatives for offenders to:

- (1) Promote accountability of offenders to crime victims, local communities and the state by providing increased opportunities for offenders to make restitution to victims of crime through financial reimbursement or community service;
- (2) Ensure that victims of crime are included in meaningful ways in Missouri's response to crime;
- (3) Provide structured opportunities for local communities to determine effective local sentencing options to assure that individual community programs are specifically designed to meet local needs;
- (4) Reduce the cost of punishment, supervision and treatment significantly below the annual per-offender cost of confinement within the traditional prison system; and
- (5) Improve public confidence in the criminal justice system by involving the public in the development of community-based sentencing options for eligible offenders.

2. The program shall be designed to implement and operate community-based restorative justice projects including, but not limited to: preventive or diversionary programs, community-based intensive probation and parole services, community-based treatment centers, day reporting centers, and the operation of facilities for the detention, confinement, care and treatment of adults under the purview of this chapter.

3. The department shall promulgate rules and regulations for operation of the program established pursuant to this section as provided for in section 217.040 and chapter 536.

4. Any proposed program or strategy created pursuant to this section shall be developed after identification of a need in the community for such programs, through consultation with representatives of the general public, judiciary, law enforcement and defense and prosecution bar.

5. Until December 31, 2000, in communities where local volunteer community boards are established at the request of the court, the following guidelines apply:

- (1) The department shall provide a program of training to eligible volunteers and develop specific conditions of a probation program and conditions of probation for offenders referred to it by the court. Such conditions, as established by the community boards and the department, may include compensation and restitution to the community and the victim by fines, fees, day fines, victim-offender mediation, participation in victim impact panels, community service, or a combination of the aforementioned conditions;
- (2) In referring offenders to local volunteer community boards for probation supervision pursuant to this section, the court is encouraged to select those volunteers who live in close geographical proximity to the community in which the crime is alleged to have occurred for supervision purposes;

(3) The term of probation shall not exceed five years and may be concluded by the court when conditions imposed are met to the satisfaction of the local volunteer community board.

6. The department may staff programs created pursuant to this section with employees of the department or may contract with other public or private agencies for delivery of services as otherwise provided by law.]

**[227.381. OFFICER THOMAS G. SMITH JR. MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF I-55 IN ST. LOUIS COUNTY.** — The portion of interstate 55 in St. Louis County between Butler Hill Road and Meramec Bottom Road shall be designated the "Officer Thomas G. Smith Jr. Memorial Highway".]

**[228.362. USE OF ROAD ALLOWED, WHEN — DAMAGES FOR USE ALLOWED, WHEN — ABANDONMENT OF PROCEEDINGS, EFFECT.** — 1. Unless exceptions to the commissioners' report have been filed pursuant to section 228.358, the plaintiffs shall not be entitled to use of the private road until judgment is entered and becomes final and appeals, if any, have been exhausted and the plaintiffs have satisfied the damage award contained in the judgment. The plaintiffs may voluntarily abandon the proceedings and dismiss the petition at any time prior to satisfaction of the damage award, and if the plaintiffs do not satisfy the damage award within sixty days following the date upon which the judgment becomes final and appeals, if any, have been exhausted, then the proceedings shall be deemed abandoned. In either instance, the circuit court shall retain jurisdiction solely to enter an order vacating the judgment, dismissing the petition and ordering disposition of the bond, if any. No execution shall issue on the damage award. If the plaintiffs shall have used the private road before judgment has become final and appeals, if any, have been exhausted and the private road is not for any reason established according to the terms of sections 228.342 to 228.368, after final judgment and appeals, the plaintiffs and their sureties shall be liable on their bond for all damages and costs occasioned by such use of the private road. If the petition is voluntarily dismissed after the filing of the commissioners' report or is deemed abandoned, the plaintiffs and the successors and assigns to the real property which was the subject of the petition shall be barred for a period of seven years from the date of the abandonment or dismissal from filing another petition under sections 228.342 to 228.368, for the establishment of a private road over the same or any part of the real property over which the private road was sought in the prior petition.

2. If a party files exceptions to the commissioners' report pursuant to this section, the plaintiffs shall be entitled to use of the private road before judgment is entered and becomes final and appeals, if any, have been exhausted, if the plaintiffs shall have given an appeal bond in an amount as the circuit court deems sufficient to pay the probable damages that plaintiffs will owe and costs.]

**[286.060. LABOR AND INDUSTRIAL RELATIONS COMMISSION, POWERS AND DUTIES — RULES.** — 1. It shall be the duty of the commission, and it shall have power, jurisdiction and authority:

- (1) To sue and be sued in its official name;
- (2) To have and use an official seal bearing the following inscription: "The Labor and Industrial Relations Commission of the State of Missouri", which shall be judicially noticed;
- (3) To have all powers, duties and responsibilities conferred or imposed upon it by the workers' compensation law (chapter 287), the victims of crime law, chapter 595, the

division of labor standards law (within chapters 286, 290, 291, 292, 293, 294 and 444), and the unemployment compensation law (chapter 288);

(4) To approve or disapprove all rules or regulations promulgated by any division within the department;

(5) To establish and maintain as far as practicable a central system of collecting, preparing, compiling and reporting all material for statistical use in all divisions of the department of labor and industrial relations, and to this end the department shall have access to the books and records of all state departments, except those which are required by law to be kept confidential. The commission may by regulation permit employers or other persons to file combined reports of information required by law to be reported to the several divisions within the department whenever it finds that same or similar information is required by law to be reported by such employers or persons to more than one division within the department;

(6) To maintain, as far as practicable, a central system for payroll and other accounting for the several divisions in the department;

(7) To compile and publish, in printed form, at the expense of the divisions within the department all rules and regulations (except such rules and regulations which relate to the internal management of the department) which have been adopted by or with the approval of the commission, and to furnish copies thereof to any citizen of the state upon request;

(8) To adopt all regulations necessary to the efficient internal management of the department, not inconsistent with any provisions of law; and to adopt regulations governing its proceedings in connection with the exercise of its quasi-judicial functions;

(9) The commission or any member of the commission may hold hearings, require the attendance of witnesses, administer oaths and take testimony;

(10) Each of the commissioners shall have power to certify to official acts;

(11) To prepare and submit to each regular session of the general assembly and to the governor at the beginning of each session of the general assembly, a complete and detailed report of the activities of the department, including the activities of each division within the department, during the preceding biennial period. Such report shall include a balance sheet of the moneys in the various administrative funds under its jurisdiction as well as all information required to be reported by the various laws under its jurisdiction, which reports shall be in lieu of any report to the general assembly now required by law for any department or office, the powers and duties of which are by this chapter vested in a division in the department of labor and industrial relations;

(12) To require the division of employment security to furnish it with a stenographer or clerk to file, process and keep records of all cases appealed from that division to the labor and industrial relations commission; and

(13) To have and perform such other powers and duties as may be conferred or imposed upon it by law.

2. No rule or portion of a rule promulgated under the authority of this chapter shall become effective until it has been approved by the joint committee on administrative rules in accordance with the procedures provided in this section, and the delegation of the legislative authority to enact law by the adoption of such rules is dependent upon the power of the joint committee on administrative rules to review and suspend rules pending ratification by the senate and the house of representatives as provided in this section.

3. Upon filing any proposed rule with the secretary of state, the filing agency shall concurrently submit such proposed rule to the committee, which may hold hearings upon any proposed rule or portion thereof at any time.

4. A final order of rulemaking shall not be filed with the secretary of state until thirty days after such final order of rulemaking has been received by the committee. The

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committee may hold one or more hearings upon such final order of rulemaking during the thirty-day period. If the committee does not disapprove such order of rulemaking within the thirty-day period, the filing agency may file such order of rulemaking with the secretary of state and the order of rulemaking shall be deemed approved.

5. The committee may, by majority vote of the members, suspend the order of rulemaking or portion thereof by action taken prior to the filing of the final order of rulemaking only for one or more of the following grounds:

- (1) An absence of statutory authority for the proposed rule;
- (2) An emergency relating to public health, safety or welfare;
- (3) The proposed rule is in conflict with state law;
- (4) A substantial change in circumstance since enactment of the law upon which the proposed rule is based.

6. If the committee disapproves any rule or portion thereof, the filing agency shall not file such disapproved portion of any rule with the secretary of state and the secretary of state shall not publish in the Missouri Register any final order of rulemaking containing the disapproved portion.

7. If the committee disapproves any rule or portion thereof, the committee shall report its findings to the senate and the house of representatives. No rule or portion thereof disapproved by the committee shall take effect so long as the senate and the house of representatives ratify the act of the joint committee by resolution adopted in each house within thirty legislative days after such rule or portion thereof has been disapproved by the joint committee.

8. Upon adoption of a rule as provided in this section, any such rule or portion thereof may be suspended or revoked by the general assembly either by bill or, pursuant to section 8, article IV of the Constitution of Missouri, by concurrent resolution upon recommendation of the joint committee on administrative rules. The committee shall be authorized to hold hearings and make recommendations pursuant to the provisions of section 536.037. The secretary of state shall publish in the Missouri Register, as soon as practicable, notice of the suspension or revocation.]

**[301.630. LIEN OR ENCUMBRANCE, ASSIGNMENT, PROCEDURE, EFFECT OF — PERFECTION OF ASSIGNMENT, HOW, FEE — FORM FOR NOTICE OF ELECTRONIC CERTIFICATE. —** 1. A lienholder may assign, absolutely or otherwise, his or her lien or encumbrance in the motor vehicle or trailer to a person other than the owner without affecting the interest of the owner or the validity or effect of the lien or encumbrance, but any person without notice of the assignment is protected in dealing with the lienholder as the holder of the lien or encumbrance and the lienholder remains liable for any obligations as lienholder until the assignee is named as lienholder on the certificate.

2. The assignee may, but need not perfect the assignment, have the certificate of ownership endorsed or issued with the assignee named as lienholder, upon delivering to the director of revenue the certificate and an assignment by the lienholder named in the certificate in the form the director of revenue prescribes the application and the required fee.

3. If the certificate of ownership is being electronically retained by the director of revenue, the original lienholder may mail or deliver a notice of assignment of a lien to the director in a form prescribed by the director. Upon receipt of notice of assignment the director shall update the electronic certificate of ownership to reflect the assignment of the lien and lienholder.]

**[304.156. NOTICE TO TOWING COMPANY, OWNER OR LIENHOLDER, WHEN — STORAGE CHARGES, WHEN AUTHORIZED — SEARCH OF VEHICLE FOR OWNERSHIP**

**DOCUMENTS — PETITION, DETERMINATION OF WRONGFUL TAKING —  
POSSESSORY LIEN, NEW TITLE, HOW ISSUED — SALE OF ABANDONED PROPERTY BY  
MUNICIPALITY OR COUNTY — TOWING COMPANY, NEW TITLE WHEN. — 1.**

Within five working days of receipt of the crime inquiry and inspection report under section 304.155 or the abandoned property report under section 304.157, the director of revenue shall search the records of the department of revenue, or initiate an inquiry with another state, if the evidence presented indicated the abandoned property was registered or titled in another state, to determine the name and address of the owner and lienholder, if any. After ascertaining the name and address of the owner and lienholder, if any, the department shall, within fifteen working days, notify the towing company. Any towing company which comes into possession of abandoned property pursuant to section 304.155 or 304.157 and who claims a lien for recovering, towing or storing abandoned property shall give notice to the title owner and to all persons claiming a lien thereon, as disclosed by the records of the department of revenue or of a corresponding agency in any other state. The towing company shall notify the owner and any lienholder within ten business days of the date of mailing indicated on the notice sent by the department of revenue, by certified mail, return receipt requested. The notice shall contain the following:

- (1) The name, address and telephone number of the storage facility;
- (2) The date, reason and place from which the abandoned property was removed;
- (3) A statement that the amount of the accrued towing, storage and administrative costs are the responsibility of the owner, and that storage and/or administrative costs will continue to accrue as a legal liability of the owner until the abandoned property is redeemed;
- (4) A statement that the storage firm claims a possessory lien for all such charges;
- (5) A statement that the owner or holder of a valid security interest of record may retake possession of the abandoned property at any time during business hours by proving ownership or rights to a secured interest and paying all towing and storage charges;
- (6) A statement that, should the owner consider that the towing or removal was improper or not legally justified, the owner has a right to request a hearing as provided in this section to contest the propriety of such towing or removal;
- (7) A statement that if the abandoned property remains unclaimed for thirty days from the date of mailing the notice, title to the abandoned property will be transferred to the person or firm in possession of the abandoned property free of all prior liens; and
- (8) A statement that any charges in excess of the value of the abandoned property at the time of such transfer shall remain a liability of the owner.

2. A towing company may only assess reasonable storage charges for abandoned property towed without the consent of the owner. Reasonable storage charges shall not exceed the charges for vehicles which have been towed with the consent of the owner on a negotiated basis. Storage charges may be assessed only for the time in which the towing company complies with the procedural requirements of sections 304.155 to 304.158.

3. In the event that the records of the department of revenue fail to disclose the name of the owner or any lienholder of record, the department shall notify the towing company which shall attempt to locate documents or other evidence of ownership on or within the abandoned property itself. The towing company must certify that a physical search of the abandoned property disclosed that no ownership documents were found and a good faith effort has been made. For purposes of this section, "good faith effort" means that the following checks have been performed by the company to establish the prior state of registration and title:

(1) Check of the abandoned property for any type of license plates, license plate record, temporary permit, inspection sticker, decal or other evidence which may indicate a state of possible registration and title;

(2) Check the law enforcement report for a license plate number or registration number if the abandoned property was towed at the request of a law enforcement agency;

(3) Check the tow ticket/report of the tow truck operator to see if a license plate was on the abandoned property at the beginning of the tow, if a private tow; and

(4) If there is no address of the owner on the impound report, check the law enforcement report to see if an out-of-state address is indicated on the driver license information.

4. If no ownership information is discovered, the director of revenue shall be notified in writing and title obtained in accordance with subsection 7 of this section.

5. (1) The owner of the abandoned property removed pursuant to the provisions of section 304.155 or 304.157 or any person claiming a lien, other than the towing company, within ten days after the receipt of notification from the towing company pursuant to subsection 1 of this section may file a petition in the associate circuit court in the county where the abandoned property is stored to determine if the abandoned property was wrongfully taken or withheld from the owner. The petition shall name the towing company among the defendants. The petition may also name the agency ordering the tow or the owner, lessee or agent of the real property from which the abandoned property was removed. The director of revenue shall not be a party to such petition but a copy of the petition shall be served on the director of revenue who shall not issue title to such abandoned property pursuant to this section until the petition is finally decided.

(2) Upon filing of a petition in the associate circuit court, the owner or lienholder may have the abandoned property released upon posting with the court a cash or surety bond or other adequate security equal to the amount of the charges for towing and storage to ensure the payment of such charges in the event he does not prevail. Upon the posting of the bond and the payment of the applicable fees, the court shall issue an order notifying the towing company of the posting of the bond and directing the towing company to release the abandoned property. At the time of such release, after reasonable inspection, the owner or lienholder shall give a receipt to the towing company reciting any claims for loss or damage to the abandoned property or the contents thereof.

(3) Upon determining the respective rights of the parties, the final order of the court shall provide for immediate payment in full of recovery, towing, and storage fees by the abandoned property owner or lienholder or the owner, lessee, or agent thereof of the real property from which the abandoned property was removed.

6. A towing and storage lien shall be enforced as provided in subsection 7 of this section.

7. Thirty days after the notification form has been mailed to the abandoned property owner and holder of a security agreement and the property is unredeemed and no satisfactory arrangement has been made with the lienholder in possession for continued storage, and the owner or holder of a security agreement has not requested a hearing as provided in subsection 5 of this section, the lienholder in possession may apply to the director of revenue for a certificate. The application for title shall be accompanied by:

(1) An affidavit from the lienholder in possession that he has been in possession of the abandoned property for at least thirty days and the owner of the abandoned property

or holder of a security agreement has not made arrangements for payment of towing and storage charges;

(2) An affidavit that the lienholder in possession has not been notified of any application for hearing as provided in this section;

(3) A copy of the abandoned property report or crime inquiry and inspection report;

(4) A copy of the thirty-day notice given by certified mail to any owner and person holding a valid security interest and a copy of the certified mail receipt indicating that the owner and lienholder of record was sent a notice as required in this section; and

(5) A copy of the envelope or mailing container showing the address and postal markings indicating that the notice was "not forwardable" or "address unknown".

8. If notice to the owner and holder of a security agreement has been returned marked "not forwardable" or "addressee unknown", the lienholder in possession shall comply with subsection 3 of this section.

9. Any municipality or county may adopt an ordinance regulating the removal and sale of abandoned property provided such ordinance is consistent with sections 304.155 to 304.158, and, for a home rule city with more than four hundred thousand inhabitants and located in more than one county, includes the following provisions:

(1) That the department of revenue records must be searched to determine the registered owner or lienholder of the abandoned property;

(2) That if a registered owner or lienholder is disclosed in the records, that the owner and lienholder or owner or lienholder are mailed a notice by the governmental agency, by U.S. mail, advising of the towing and impoundment;

(3) That if the vehicle is older than six years and more than fifty percent damaged by collision, fire, or decay, and has a fair market value of less than two hundred dollars as determined by using any nationally recognized appraisal book or method, it must be held no less than ten days after the notice is sent pursuant to this subsection before being sold to a licensed salvage or scrap business; provided however where a title is required under this chapter an affidavit from a certified appraiser attesting that the value of the vehicle is less than two hundred dollars;

(4) That all other vehicles must be held no less than thirty days after the notice is sent pursuant to this subsection before they may be sold.

10. Any municipality or county which has physical possession of the abandoned property and which sells abandoned property in accordance with a local ordinance may transfer ownership by means of a bill of sale signed by the municipal or county clerk or deputy and sealed with the official municipal or county seal. Such bill of sale shall contain the make and model of the abandoned property, the complete abandoned property identification number and the odometer reading of the abandoned property if available and shall be lawful proof of ownership for any dealer registered under the provisions of section 301.218, or section 301.560, or for any other person. Any dealer or other person purchasing such property from a municipality or county shall apply within thirty days of purchase for a certificate. Anyone convicted of a violation of this section shall be guilty of an infraction.

11. Any persons who have towed abandoned property prior to August 28, 1996, may, until January 1, 2000, apply to the department of revenue for a certificate. The application shall be accompanied by:

(1) A notarized affidavit explaining the circumstances by which the abandoned property came into their possession, including the name of the owner or possessor of real property from which the abandoned property was removed;

(2) The date of the removal;

(3) The current location of the abandoned property;

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- (4) An inspection of the abandoned property as prescribed by the director; and
- (5) A copy of the thirty-day notice given by certified mail to any owner and person holding a valid security interest of record and a copy of the certified mail receipt.

12. If the director is satisfied with the genuineness of the application and supporting documents submitted pursuant to this section, the director shall issue one of the following:

(1) An original certificate of title if the vehicle owner has obtained a vehicle examination certificate as provided in section 301.190 which indicates that the vehicle was not previously in a salvaged condition or rebuilt;

(2) An original certificate of title designated as prior salvage if the vehicle examination certificate as provided in section 301.190 indicates the vehicle was previously in a salvage condition or rebuilt;

(3) A salvage certificate of title designated with the words "salvage/abandoned property" or junking certificate based on the condition of the abandoned property as stated in the abandoned property report or crime inquiry and inspection report;

(4) Notwithstanding the provisions of section 301.573 to the contrary, if satisfied with the genuineness of the application and supporting documents, the director shall issue an original title to abandoned property previously issued a salvage title as provided in this section, if the vehicle examination certificate as provided in section 301.190 does not indicate the abandoned property was previously in a salvage condition or rebuilt.

13. If abandoned property is insured and the insurer of property regards the property as a total loss and the insurer satisfies a claim by the owner for the property, then the insurer or lienholder shall claim and remove the property from the storage facility or make arrangements to transfer the title, and such transfer of title subject to agreement shall be in complete satisfaction of all claims for towing and storage, to the towing company or storage facility. The owner of the abandoned vehicle, lienholder or insurer, to the extent the vehicle owner's insurance policy covers towing and storage charges, shall pay reasonable fees assessed by the towing company and storage facility. The property shall be claimed and removed or title transferred to the towing company or storage facility within thirty days of the date that the insurer paid a claim for the total loss of the property or is notified as to the location of the abandoned property, whichever is the later event. Upon request, the insurer of the property shall supply the towing company and storage facility with the name, address and phone number of the insurance company and of the insured and with a statement regarding which party is responsible for the payment of towing and storage charges under the insurance policy.]

**[304.678. DISTANCE TO BE MAINTAINED WHEN OVERTAKING A BICYCLE — VIOLATION, PENALTY. —** The operator of a motor vehicle overtaking a bicycle proceeding in the same direction on the roadway, as defined in section 300.010, shall leave a safe distance when passing the bicycle, and shall maintain clearance until safely past the overtaken bicycle.]

**[321.701. MEMBERS OF BOARD SUBJECT TO RECALL — EXCEPTIONS. —** 1. Each member of a fire protection district board located in any county of the first classification with a population of nine hundred thousand or more inhabitants shall be subject to recall from office by the registered voters of the district from which he was elected. Proceedings may be commenced for the recall of any fire protection district board member by the filing of a notice of intention to circulate a recall petition pursuant to sections 321.701 to 321.716.

2. Proceedings may not be commenced against any member if, at the time of commencement, that member:

- (1) Has not held office during his current term for a period of more than one hundred eighty days; or
- (2) Has one hundred eighty days or less remaining in his term; or
- (3) Has had a recall election determined in his favor within the current term of office.]

**[321.714. CERTIFICATION OF PETITION BY ELECTION AUTHORITY, CONTENT, ELECTION TO BE HELD — CANDIDACY NOMINATION FILED — RESIGNATION BY BOARD MEMBER, RECALL TO BE REMOVED FROM BALLOT — RESIGNED BOARD MEMBER MAY NOT FILL VACANCY. —** 1. If the election authority finds the signatures on the petition, together with the supplementary petition sections if any, to be sufficient, it shall submit its certificate as to the sufficiency of the petition to the fire protection district board prior to its next meeting. The certificate shall contain:

- (1) The name of the member whose recall is sought;
- (2) The number of signatures required by law;
- (3) The total number of signatures on the petition;
- (4) The number of valid signatures on the petition.

2. Following the fire protection board's receipt of the certificate, the election authority shall order an election to be held on one of the election days specified in section 115.123. The election shall be held not less than forty-five days nor more than one hundred twenty days after the fire protection district board receives the petition. Nominations hereunder shall be made by filing a statement of candidacy with the election authority.

3. At any time prior to forty-two days before the election, the member sought to be recalled may offer his resignation. If his resignation is offered, the recall question shall be removed from the ballot and the office declared vacant. The member who resigned may not fill the vacancy which shall be filled as provided by law.]

**[324.712. CERTIFICATE OF INSURANCE REQUIRED. —** 1. No license shall be issued or renewed unless the applicant files with the division a certificate or certificates of insurance from an insurance company or companies authorized to do business in this state. The applicant must demonstrate that he or she has:

- (1) Motor vehicle insurance for bodily injury to or death of one or more persons in any one accident and for injury or destruction of property of others in any one accident with minimum coverage of five hundred thousand dollars;
- (2) Comprehensive general liability insurance with a minimum coverage of two million dollars, including coverage of operations on state streets and highways that are not covered by motor vehicle insurance; and
- (3) Workers' compensation insurance that complies with chapter 287 for all employees.

2. The certificate or certificates shall provide for continuous coverage during the effective period of the license issued pursuant to this section. At the time the certificate is filed, the applicant shall also file with the division a current list of all motor vehicles covered by the certificate. The applicant shall file amendments to the list within fifteen days of any changes.

3. An insurance company issuing any insurance policy required by this section shall notify the division of any of the following events at least thirty days before its occurrence:

- (1) Cancellation of the policy;
  - (2) Nonrenewal of the policy by the company; or
  - (3) Any change in the policy.
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4. In addition to all coverages required by this section, the applicant shall file with the division a copy of either:

(1) A bond or other acceptable surety providing coverage in the amount of fifty thousand dollars for the benefit of a person contracting with the housemover to move that person's house for all claims for property damage arising from the movement of a house; or

(2) A policy of cargo insurance in the amount of one hundred thousand dollars.]

**[335.067. IMPAIRED NURSE PROGRAM MAY BE ESTABLISHED BY THE BOARD — PURPOSE OF PROGRAM — CONTRACTS — IMMUNITY FROM LIABILITY, WHEN — CONFIDENTIALITY OF RECORDS. —** 1. The state board of nursing may establish an impaired nurse program to promote the early identification, intervention, treatment, and rehabilitation of nurses who may be impaired by reasons of illness, substance abuse, or as a result of any mental condition. This program shall be available to anyone holding a current license and may be entered voluntarily, as part of an agreement with the board of nursing, or as a condition of a disciplinary order entered by the board of nursing.

2. The board may enter into a contractual agreement with a nonprofit corporation or a nursing association for the purpose of creating, supporting, and maintaining a program to be designated as the impaired nurse program. The board may promulgate administrative rules subject to the provisions of this section and chapter 536 to effectuate and implement any program formed pursuant to this section.

3. The board may expend appropriated funds necessary to provide for operational expenses of the program formed pursuant to this section.

4. Any member of the program, as well as any administrator, staff member, consultant, agent, or employee of the program, acting within the scope of his or her duties and without actual malice, and all other persons who furnish information to the program in good faith and without actual malice, shall not be liable for any claim of damages as a result of any statement, decision, opinion, investigation, or action taken by the program, or by any individual member of the program.

5. All information, interviews, reports, statements, memoranda, or other documents furnished to or produced by the program, as well as communications to or from the program, any findings, conclusions, interventions, treatment, rehabilitation, or other proceedings of the program which in any way pertain to a licensee who may be, or who actually is, impaired shall be privileged and confidential.

6. All records and proceedings of the program which pertain or refer to a licensee who may be, or who actually is, impaired shall be privileged and confidential and shall be used by the program and its members only in the exercise of the proper function of the program and shall not be considered public records under chapter 610, and shall not be subject to court subpoena or subject to discovery or introduction as evidence in any civil, criminal, or administrative proceedings except as provided in subsection 4 of this section.

7. The program may disclose information relative to an impaired licensee only when:

(1) It is essential to disclose the information to further the intervention, treatment, or rehabilitation needs of the impaired licensee and only to those persons or organizations with a need to know;

(2) Its release is authorized in writing by the impaired licensee;

(3) A licensee has breached his or her contract with the program. In this instance, the breach may be reported only to the board of nursing; or

(4) The information is subject to a court order.

8. When pursuing discipline against a licensed practical nurse, registered nurse, or advanced practice registered nurse for violating one or more causes stated in subsection

2 of section 335.066, the board may, if the violation is related to chemical dependency or mental health, require that the licensed practical nurse, registered nurse, or advanced practice registered nurse complete the impaired nurse program under such terms and conditions as are agreed to by the board and the licensee for a period not to exceed five years. If the licensee violates a term or condition of an impaired nurse program agreement entered into under this section, the board may elect to pursue discipline against the licensee pursuant to chapter 621 for the original conduct that resulted in the impaired nurse program agreement, or for any subsequent violation of subsection 2 of section 335.066.

While the licensee participates in the impaired nurse program, the time limitations of section 620.154 shall toll under subsection 7 of section 620.154. All records pertaining to the impaired nurse program agreements are confidential and may only be released under subdivision (7) of subsection 14 of section 620.010.

9. The board may disclose information and records to the impaired nurse program to assist the program in the identification, intervention, treatment, and rehabilitation of licensed practical nurses, registered nurses, or advanced practice registered nurses who may be impaired by reason of illness, substance abuse, or as the result of any physical or mental condition. The program shall keep all information and records provided by the board confidential to the extent the board is required to treat the information and records closed to the public under chapter 620.]

**[339.040. LICENSES GRANTED TO WHOM — EXAMINATION — QUALIFICATIONS — FEE — TEMPORARY BROKER'S LICENSE, WHEN — RENEWAL, REQUIREMENTS. —** 1. Licenses shall be granted only to persons who present, and corporations, associations, partnerships, limited partnerships and limited liability companies whose officers, professional corporations, managers, associates, general partners, or members who actively participate in such entity's brokerage, broker-salesperson, or salesperson business present, satisfactory proof to the commission that they:

- (1) Are persons of good moral character; and
- (2) Bear a good reputation for honesty, integrity, and fair dealing; and
- (3) Are competent to transact the business of a broker or salesperson in such a manner as to safeguard the interest of the public.

2. In order to determine an applicant's qualifications to receive a license under sections 339.010 to 339.180 and sections 339.710 to 339.860, the commission shall hold oral or written examinations at such times and places as the commission may determine.

3. Each applicant for a broker or salesperson license shall be at least eighteen years of age and shall pay the broker examination fee or the salesperson examination fee.

4. Each applicant for a broker license shall be required to have satisfactorily completed the salesperson license examination prescribed by the commission. For the purposes of this section only, the commission may permit a person who is not associated with a licensed broker to take the salesperson examination.

5. Each application for a broker license shall include a certificate from the applicant's broker or brokers that the applicant has been actively engaged in the real estate business as a licensed salesperson for at least two years immediately preceding the date of application, and shall include a certificate from a school accredited by the commission under the provisions of section 339.045 that the applicant has, within six months prior to the date of application, successfully completed the prescribed broker curriculum or broker correspondence course offered by such school, except that the commission may waive all or part of the requirements set forth in this subsection when an applicant presents proof of other educational background or experience acceptable to

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the commission. Each application for a broker-salesperson license shall include evidence of the current broker license held by the applicant.

6. Each application for a salesperson license shall include a certificate from a school accredited by the commission under the provisions of section 339.045 that the applicant has, within six months prior to the date of application, successfully completed the prescribed salesperson curriculum or salesperson correspondence course offered by such school, except that the commission may waive all or part of the educational requirements set forth in this subsection when an applicant presents proof of other educational background or experience acceptable to the commission.

7. The commission may issue a temporary work permit pending final review and printing of the license to an applicant who appears to have satisfied the requirements for licenses. The commission may, at its discretion, withdraw the work permit at any time.

8. Every active broker, broker-salesperson, salesperson, officer, manager, general partner, member or associate shall provide upon request to the commission evidence that during the two years preceding he or she has completed twelve hours of real estate instruction in courses approved by the commission. The commission may, by rule and regulation, provide for individual waiver of this requirement.

9. Each entity that provides continuing education required under the provisions of subsection 8 of this section may make available instruction courses that the entity conducts through means of distance delivery. The commission shall by rule set standards for such courses. The commission may by regulation require the individual completing such distance-delivered course to complete an examination on the contents of the course. Such examination shall be designed to ensure that the licensee displays adequate knowledge of the subject matter of the course, and shall be designed by the entity producing the course and approved by the commission.

10. In the event of the death or incapacity of a licensed broker, or of one or more of the licensed general partners, officers, managers, members or associates of a real estate partnership, limited partnership, limited liability company, professional corporation, corporation, or association whereby the affairs of the broker, partnership, limited partnership, limited liability company, professional corporation, corporation, or association cannot be carried on, the commission may issue, without examination or fee, to the legal representative or representatives of the deceased or incapacitated individual, or to another individual approved by the commission, a temporary broker license which shall authorize such individual to continue for a period to be designated by the commission to transact business for the sole purpose of winding up the affairs of the broker, partnership, limited partnership, limited liability company, professional corporation, corporation, or association under the supervision of the commission.]

**[361.170. EXPENSES OF EXAMINATION, HOW PAID — SALARY SCHEDULE FOR DIVISION EMPLOYEES TO BE MAINTAINED — DIVISION OF FINANCE FUND, CREATED, USES, TRANSFERS TO GENERAL REVENUE FUND, WHEN. — 1.** The expense of every regular and every special examination, together with the expense of administering the banking laws, including salaries, travel expenses, supplies and equipment, and including the direct and indirect expenses for rent and other supporting services furnished by the state, shall be paid by the banks and trust companies of the state, and for this purpose the director shall, prior to the beginning of each fiscal year, make an estimate of the expenses to be incurred by the division during such fiscal year. To this there shall be added an amount not to exceed fifteen percent of the estimated expenses to pay the costs of rent and other supporting services such as the costs related to the division's services from the state auditor and attorney general and an amount sufficient to cover the cost of fringe benefits furnished by the state. From this total

amount the director shall deduct the estimated amount of the anticipated annual income to the fund from all sources other than bank or trust company assessments. The director shall allocate and assess the remainder to the several banks and trust companies in the state on the basis of a weighted formula to be established by the director, which will take into consideration their total assets, as reflected in the last preceding report called for by the director pursuant to the provisions of section 361.130 or from information obtained pursuant to subsection 3 of section 361.130 and, for trust companies which do not take deposits or make loans, the volume of their trust business, and the relative cost, in salaries and expenses, of examining banks and trust companies of various size and this calculation shall result in an assessment for each bank and trust company which reasonably represents the costs of the division of finance incurred with respect to such bank or trust company. A statement of such assessment shall be sent by the director to each bank and trust company on or before July first. One-half of the amount so assessed to each bank or trust company shall be paid by it to the state director of the department of revenue on or before July fifteenth, and the remainder shall be paid on or before January fifteenth of the next year.

2. Any expenses incurred or services performed on account of any bank, trust company or other corporation subject to the provisions of this chapter, outside of the normal expense of any annual or special examination, shall be charged to and paid by the corporation for whom they were incurred or performed. Fees and charges to other corporations subject to this chapter shall be reviewed at least annually by the division of finance to determine whether regulatory costs are offset by the fees and charges and the director of the division of finance shall revise fees and charges to fully recover such costs to the extent allowed by law or recommend to the general assembly necessary statutory changes to fully recover such costs.

3. The director of the division of finance shall prepare and maintain an equitable salary schedule for examiners, professional staff, and support personnel that are employees of the division. Personnel employed by the division shall be compensated according to the following schedule, provided that such expense of administering the banking laws is assessed and paid in accordance with this section. The positions and classification plan for such personnel attributed to the examination of the state bank and trust companies shall allow for a comparison of such positions with similar bank examiner positions at federal bank regulatory agencies. State bank examiner positions shall not be compensated at more than ninety percent of parity for corresponding federal positions for similar geographic locations in the state as determined by the director of the division of finance.

4. The state treasurer shall credit such payments to a special fund to be known as the "Division of Finance Fund", which is hereby created and which shall be devoted solely to the payment of expenditures actually incurred by the division and attributable to the regulation of banks, trust companies, and other corporations subject to the jurisdiction of the division. Any amount, other than the amount not to exceed fifteen percent for supporting services and the amount of fringe benefits described in subsection 1 of this section, remaining in such fund at the end of any fiscal year and any earnings attributed to such fund shall not be transferred and placed to the credit of the general revenue fund as provided in section 33.080, but shall be applicable by appropriation of the general assembly to the payment of such expenditures of the division in the succeeding fiscal year and shall be applied by the division to the reduction of the amount to be assessed to banks and trust companies in such succeeding fiscal year; provided the amount not to exceed fifteen percent for supporting services and the amount of fringe benefits described in subsection 1 of this section shall be returned to general revenue to the extent supporting services are not directly allocated to the fund.]

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**[370.107. ANNUAL FEE — HOW COMPUTED — DIVISION OF CREDIT UNIONS FUND, CREATED, USES — SALARY SCHEDULE OF DIVISION EMPLOYEES TO BE MAINTAINED.]** — 1. Every credit union organized pursuant to section 370.010 and operating pursuant to the laws of this state shall pay to the department of revenue a fee determined by the director based on the total assets of the credit union as of December thirty-first of the preceding fiscal year. One-half of the fee shall be paid on or before July fifteenth, and the balance shall be paid on or before January fifteenth of the next succeeding year. The maximum fee shall be calculated according to the following table:

Total Assets	Fee
Under \$2,000,000 .....	\$ 0.125 per \$1,000 of assets up to a maximum of \$250
\$2,000,000 or more but less than \$5,000,000...	\$250, plus \$1 per \$1,000 of assets in excess of \$2,000,000
\$5,000,000 or more but less than \$10,000,000 .....	\$3,250, plus \$0.35 per \$1,000 of assets in excess of \$5,000,000
\$10,000,000 or more but less than \$25,000,000 .....	\$5,000, plus \$0.20 per \$1,000 of assets in excess of \$10,000,000
\$25,000,000 or more .....	\$8,000, plus \$0.15 per \$1,000 of assets in excess of \$25,000,000.

The shares of one credit union which are owned by another credit union shall be excluded from the assets of the first credit union for the purpose of computing the supervisory fee levied pursuant to this section. All fees assessed shall be accounted for as prepaid expenses on the books of the credit union.

2. The state treasurer shall credit such payments, including all fees and charges made pursuant to this chapter to a special fund to be known as the "Division of Credit Unions Fund", which is hereby created and which shall be devoted solely and exclusively to the payment of expenditures actually incurred by the division and attributable to the regulation of credit unions. Any amount remaining in such fund at the end of any fiscal year and any earnings attributed to such fund shall not be transferred and placed to the credit of the general revenue fund as provided in section 33.080 but shall be used, upon appropriation by the general assembly, for the payment of such expenditures of the division in the succeeding fiscal year and shall be applied by the division to the reduction of the amount to be assessed to credit unions in such succeeding fiscal year. In the event two or more credit unions are merged or consolidated, such excess amounts shall be credited to the surviving or new credit union.

3. The expense of every regular and every special examination, together with the expenses of administering the laws pertaining to credit unions, including salaries, travel expenses, supplies and equipment, credit union commission expenses of administrative and clerical assistance, legal costs and any other reasonable expense in the performance

of its duties, and an amount not to exceed fifteen percent of the above-estimated expenses to pay the actual costs of rent, utilities, other occupancy expenses and other supporting services furnished by any department, division or executive office of this state and an amount sufficient to cover the cost of fringe benefits shall be paid by the credit unions of this state by the payment of fees yielded by this section.

4. The director of the division of credit unions shall prepare and maintain an equitable salary schedule for examiners, professional staff, and support personnel who are employees of the division. Personnel employed by the division shall be compensated according to this schedule, provided that such expense of administering the credit union laws is assessed and paid in accordance with this section. The positions and classification plan for such personnel attributed to the examination of the state credit unions shall allow for a comparison of such positions with similar examiner positions at federal credit union regulatory agencies. State credit union examiner positions shall not be compensated more than ninety percent of parity for corresponding federal positions for similar geographic locations in Missouri as determined by the director of the division of credit unions. Personnel employed by the division shall be compensated according to this schedule, provided that such expense of administering the credit union laws is assessed and paid in accordance with this section.]

**[376.1500. DEFINITIONS.** — As used sections 376.1500 to 376.1532, the following words or phrases mean:

(1) "Director", the director of the department of insurance, financial institutions and professional registration;

(2) "Discount card", a card or any other purchasing mechanism or device, which is not insurance, that purports to offer discounts or access to discounts in health-related purchases from health care providers;

(3) "Discount medical plan", a business arrangement or contract in which a person, in exchange for fees, dues, charges, or other consideration, provides access for plan members to providers of medical services and the right to receive medical services from those providers at a discount. The term does not include any product regulated as an insurance product, group health service product or membership in a health maintenance organization in this state or discounts provided by an insurer, group health service, or health maintenance organizations where those discounts are provided at no cost to the insured or member and are offered due to coverage with a licensed insurer, group health service, or health maintenance organization. The term does not include an arrangement where the discounts or prices are sold, rented, or otherwise provided to another licensed carrier, self-insured or self-funded employer sponsored plan, Taft-Hartley trust, or licensed third party administrator;

(4) "Discount medical plan organization", a person or an entity that operates a discount medical plan;

(5) "Health care provider", any person or entity licensed by this state to provide health care services including, but not limited to physicians, hospitals, home health agencies, pharmacies, and dentists;

(6) "Health care provider network", an entity which directly contracts with physicians and hospitals and has contractual rights to negotiate on behalf of those health care providers with a discount medical plan organization to provide medical services to members of the discount medical plan organization;

(7) "Marketer", a person or entity who markets, promotes, sells or distributes a discount medical plan, including a private label entity that places its name on and markets or distributes a discount medical plan but does not operate a discount medical plan;

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(8) "Medical services", any care, service or treatment of illness or dysfunction of, or injury to, the human body including, but not limited to, physician care, inpatient care, hospital surgical services, emergency services, ambulance services, dental care services, vision care services, mental health services, substance abuse services, chiropractic services, podiatric care services, laboratory services, and medical equipment and supplies. The term does not include pharmaceutical supplies or prescriptions;

(9) "Member", any person who pays fees, dues, charges, or other consideration for the right to receive the purported benefits of a discount medical plan; and

(10) "Person", an individual, corporation, business trust, estate, trust, partnership, association, joint venture, limited liability company, or any other government or commercial entity.]

**[393.906. POWERS AND DUTIES.** — A nonprofit water company shall have power:

(1) To sue and be sued, in its corporate name;

(2) To have succession by its corporate name for the period stated in its articles of incorporation or, if no period is stated in its articles of incorporation, to have such succession perpetually;

(3) To adopt a corporate seal and alter the same at pleasure;

(4) To provide water treatment services to its members, to governmental agencies and political subdivisions;

(5) To make loans to persons to whom water treatment is or will be supplied by the company for the purpose of, and otherwise to assist such persons in, installing therein plumbing fixtures, appliances, apparatus and equipment of any and all kinds and character, and in connection with such installation to purchase, acquire, lease, sell, distribute, install and repair such plumbing fixtures, appliances, apparatus and equipment, and to accept or otherwise acquire, and to sell, assign, transfer, endorse, pledge, hypothecate and otherwise dispose of notes, bonds and other evidences of indebtedness and any and all types of security for such indebtedness;

(6) To make loans to persons to whom water treatment is or will be supplied by the company for the purpose of, and otherwise to assist such persons in, constructing, maintaining and operating commercial or industrial plants or facilities;

(7) To construct, purchase, take, receive, lease as lessee or otherwise acquire, and to own, hold, use, equip, maintain and operate, and to sell, assign, transfer, convey, exchange, lease as lessor, mortgage, pledge or otherwise dispose of or encumber, water provision or collection or treatment systems, plants, lands, buildings, structures, dams and equipment, and any and all kinds and classes of real or personal property whatsoever, which shall be deemed necessary, convenient or appropriate to accomplish the purpose for which the company is organized;

(8) To purchase or otherwise acquire, and to own, hold, use and exercise and to sell, assign, transfer, convey, mortgage, pledge, hypothecate or otherwise dispose of or encumber, franchises, rights, privileges, licenses, rights-of-way and easements;

(9) To borrow money and otherwise contract indebtedness, and to issue notes, bonds and other evidences of indebtedness, and to secure the payment of such indebtedness by mortgage, pledge, deed of trust, or any other encumbrance upon any or all of its then-owned or after-acquired real or personal property, assets, franchises, revenues or income;

(10) To construct, maintain and operate water distribution and collection and treatment plants and lines along, upon, under and across all public thoroughfares, including without limitation, all roads, highways, streets, alleys, bridges and causeways, and upon, under and across all publicly owned lands;

(11) To exercise the power of eminent domain in the manner provided by the laws of this state for the exercise of that power by corporations constructing or operating electric transmission and distribution lines or systems;

(12) To conduct its business and exercise any or all of its powers within or without this state;

(13) To adopt, amend and repeal bylaws; and

(14) To do and perform any and all other acts and things, and to have and exercise any and all other powers which may be necessary, convenient or appropriate to accomplish the purpose for which the company is organized.]

**[393.921. MEMBERS MUST USE SERVICES OF NONPROFIT WATER COMPANY IF AVAILABLE — MEMBERSHIP NOT TRANSFERABLE, EXCEPTION — MEETINGS, HOW CALLED, NOTICE, PROCEDURE. —** 1. No person shall become a member of a nonprofit water company unless such person shall agree to use services furnished by the company when such shall be available through its facilities. The bylaws of a company may provide that any person, including an incorporator, shall cease to be a member of such company if such person shall fail or refuse to use services made available by the company or if services shall not be made available to such person by the company within a specified time after such person shall have become a member of such company. Membership in the company shall not be transferable, except as provided in the bylaws. The bylaws may prescribe additional qualifications and limitations with respect to membership.

2. An annual meeting of the members shall be held at such time as shall be provided in the bylaws.

3. Special meetings of the members may be called by the board of directors, by any three directors, by not less than ten percent of the members or by the president.

4. Meetings of members shall be held at such place as may be provided in the bylaws. In the absence of any such provisions, all meetings shall be held in the city or town in which the principal office of the company is located.

5. Except as otherwise provided in sections 393.900 to 393.951, written or printed notice stating the time and place of each meeting of members and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be given to each member, either personally or by mail, not less than ten nor more than twenty-five days before the date of the meeting.

6. Two percent of the members, present in person or by mail or proxy shall constitute a quorum for the transaction of business at all meetings of the members, unless the bylaws prescribe the presence of a greater percentage of the members for a quorum. If less than a quorum is present at any meeting, a majority of those present in person may adjourn the meeting from time to time without further notice.

7. Each member shall be entitled to one vote on each matter submitted to a vote at a meeting. Voting shall be in person, but, if the bylaws so provide, may also be by proxy or by mail, or both. If the bylaws provide for voting by proxy or by mail, they shall also prescribe the conditions under which proxy or mail voting shall be exercised.]

**[441.236. DISCLOSURES REQUIRED FOR TRANSFER OF PROPERTY WHERE METHAMPHETAMINE PRODUCTION OCCURRED. —** 1. In the event that any premises to be leased by a landlord is or was used as a site for methamphetamine production, the landlord shall disclose in writing to the tenant the fact that methamphetamine was produced on the premises, provided that the landlord had knowledge of such prior methamphetamine production. The landlord shall disclose any prior knowledge of

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methamphetamine production, regardless of whether the persons involved in the production were convicted for such production.

2. A landlord shall disclose in writing the fact that any premises to be leased by the landlord either was the place of residence of a person convicted of any of the following crimes, or was the storage site or laboratory for any of the substances for which a person was convicted of any of the following crimes, provided that the landlord knew or should have known of such convictions:

- (1) Creation of a controlled substance in violation of section 195.420;
- (2) Possession of ephedrine with intent to manufacture methamphetamine in violation of section 195.246;
- (3) Unlawful use of drug paraphernalia with the intent to manufacture methamphetamine in violation of subsection 2 of section 195.233;
- (4) Endangering the welfare of a child by any of the means described in subdivision (4) or (5) of subsection 1 of section 568.045; or
- (5) Any other crime related to methamphetamine, its salts, optical isomers and salts of its optical isomers either in chapter 195 or in any other provision of law.]

**[470.270. MONEY OR EFFECTS INVOLVED IN LITIGATION — DISPOSITION — UNCLAIMED PROPERTY, STATE MAY BRING ACTION TO RECOVER, WHEN, EXCEPTIONS. —** 1. Notwithstanding any other provision of this chapter, after the owner, the owner's assignee, personal representative, grantee, heirs, devisees or other successors, entitled to any moneys, refund of rates or premiums or effects by reason of any litigation concerning rates, refunds, refund of premiums, fares or charges collected by any person or corporation in the state of Missouri for any service rendered or to be rendered in said state, or for any contract of insurance on property in this state, or under any contract of insurance performed or to be performed in said state, which moneys, refund of rates or premiums or effects have been paid into or deposited in connection with any cause in any court of the state of Missouri or in connection with any cause in any United States court, or so paid into the custody of any depository, clerk, custodian, or other officer of such court, whether the same be afterwards transferred and deposited in the United States treasury or not, shall be and remain unknown, or the whereabouts of such person or persons shall be and has been unknown, for the period heretofore, or hereafter, of three successive years, or such moneys, refund of rates or premiums or effects remain unclaimed for the period heretofore, or hereafter, of three successive years, from the time such moneys or property are ordered repaid or distributed by such courts, such moneys or property shall be deemed abandoned and transferred to the state of Missouri, with all interest and earnings actually accrued thereon to the date of transfer of the same. All moneys or property transferring to the state pursuant to this section shall be deemed unclaimed property under the uniform disposition of unclaimed property act as set forth in chapter 447 and shall be treated in the same manner as all other unclaimed property under such act.

2. In fiscal year 2003, the commissioner of administration shall estimate the amount of any additional state revenue received pursuant to subsection 3 of section 470.020 and shall transfer an equivalent amount of general revenue to the schools of the future fund created in section 163.005.]

**[565.082. ASSAULT OF A LAW ENFORCEMENT OFFICER, CORRECTIONS OFFICER, EMERGENCY PERSONNEL, HIGHWAY WORKER, OR PROBATION AND PAROLE OFFICER IN THE SECOND DEGREE, DEFINITION, PENALTY. —** 1. A person commits the crime of assault of a law enforcement officer, corrections officer,

emergency personnel, or probation and parole officer in the second degree if such person:

(1) Knowingly causes or attempts to cause physical injury to a law enforcement officer, corrections officer, emergency personnel, or probation and parole officer by means of a deadly weapon or dangerous instrument;

(2) Knowingly causes or attempts to cause physical injury to a law enforcement officer, corrections officer, emergency personnel, highway worker in a construction zone or work zone, or probation and parole officer by means other than a deadly weapon or dangerous instrument;

(3) Recklessly causes serious physical injury to a law enforcement officer, corrections officer, emergency personnel, or probation and parole officer; or

(4) While in an intoxicated condition or under the influence of controlled substances or drugs, operates a motor vehicle or vessel in this state and when so operating, acts with criminal negligence to cause physical injury to a law enforcement officer, corrections officer, emergency personnel, or probation and parole officer;

(5) Acts with criminal negligence to cause physical injury to a law enforcement officer, corrections officer, emergency personnel, or probation and parole officer by means of a deadly weapon or dangerous instrument;

(6) Purposely or recklessly places a law enforcement officer, corrections officer, emergency personnel, or probation and parole officer in apprehension of immediate serious physical injury; or

(7) Acts with criminal negligence to create a substantial risk of death or serious physical injury to a law enforcement officer, corrections officer, emergency personnel, or probation and parole officer.

2. As used in this section, "emergency personnel" means any paid or volunteer firefighter, emergency room or trauma center personnel, or emergency medical technician as defined in subdivisions (15), (16), (17), and (18) of section 190.100.

3. As used in this section the term "corrections officer" includes any jailer or corrections officer of the state or any political subdivision of the state.

4. Assault of a law enforcement officer, corrections officer, emergency personnel, or probation and parole officer in the second degree is a class B felony unless committed pursuant to subdivision (2), (5), (6), or (7) of subsection 1 of this section in which case it is a class C felony.]

**[644.031. STORM WATER CONTROL, FIRST CLASS COUNTIES, KANSAS CITY AND ST. LOUIS — DISTRIBUTION OF FUNDS — PLAN REQUIRED — CONTRACTS FOR CONSTRUCTION TO BE MADE WITHIN EIGHTEEN MONTHS — UNUSED FUNDS RETURNED TO CLEAN WATER COMMISSION — REDISTRIBUTION OF FUND TO ALL ELIGIBLE CITIES AND COUNTIES — STATE TO PAY ONE-THIRD OF COST — DISTRIBUTION DIRECTLY TO DISTRICTS IN CERTAIN CITIES AND COUNTIES. — 1.** The general assembly may appropriate funds to the clean water commission of the department of natural resources for the control of storm water in any county of the first classification or in any city with a population between three hundred fifty thousand and five hundred thousand, or any city not within a county. The commission shall administer and expend such funds in accordance with the terms of the appropriation.

2. The commission shall administer and expend such funds in the following manner:

(1) The funds shall be distributed based on the percentage of the population of a county or city that is eligible pursuant to this section in relation to the combined population of all counties and cities that are eligible for such funds pursuant to this section, according to the most recent federal decennial census. Participating counties or



cities must have a comprehensive storm water control plan or study approved by the Missouri clean water commission, or a comparable study acceptable to the U.S. Army Corps of Engineers and approved by the commission, prior to being eligible, however, a comprehensive storm water control plan or study prepared by any city or other political subdivision within a participating county may be accepted by the clean water commission in lieu of a county plan or study;

(2) The commission shall obligate all funds appropriated under this section to qualifying political subdivisions for storm water projects or for a comprehensive storm water control plan or study approved by the Missouri clean water commission prior to the end of the fiscal year of the appropriation or reappropriation. The political subdivisions receiving assistance under this section shall award all significant construction contracts for their projects within eighteen months of the appropriation or reappropriation;

(3) Any funds remaining unobligated at the end of the fiscal year together with any funds obligated for construction contracts which were not awarded within eighteen months of the appropriation or reappropriation shall be returned to the commission and redistributed in accordance with this section.

3. Funds authorized by the general assembly for storm water control to an eligible county or city may be expended for no more than one-third of the costs of any one storm water project.

4. Other provisions of this section notwithstanding, in those cities or counties served by a sewer district established pursuant to article VI, section 30(a) of the Constitution of the state of Missouri, any grants or loans awarded shall be disbursed directly to such district.]

**[644.568. COMMISSIONERS MAY BORROW ADDITIONAL \$10,000,000 FOR RURAL WATER AND SEWER PROJECT GRANTS AND LOANS. —** In addition to those sums authorized prior to August 28, 1999, the board of fund commissioners of the state of Missouri, as authorized by section 37(g) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of ten million dollars for the purposes of financing and constructing improvements as set out in this chapter. The department shall allocate these funds to counties, municipalities, sewer districts, water districts, or any combination of the same to provide grants and loans for rural water and sewer projects.]

Approved July 5, 2011

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HB 338 [SS HCS HB 338]

**EXPLANATION —** Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Specifies that a telecommunications company may elect to be exempt from certain rules if giving written notice to the Missouri Public Service Commission**

AN ACT to amend chapter 392, RSMo, by adding thereto one new section relating to telecommunications.

SECTION

A. Enacting clause.

392.461. Exemption from certain rules, telecommunications companies.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Chapter 392, RSMo, is amended by adding thereto one new section, to be known as section 392.461, to read as follows:

**392.461. EXEMPTION FROM CERTAIN RULES, TELECOMMUNICATIONS COMPANIES.** — A telecommunications company may, upon written notice to the commission, elect to be exempt from certain retail rules relating to:

(1) The provision of telecommunications service to retail customers and established by the commission which include provisions already mandated by the Federal Communications Commission, including but not limited to federal rules regarding customer proprietary network information, verification of orders for changing telecommunications service providers (slamming), submission or inclusion of charges on customer bills (cramming); or

(2) The installation, provisioning, or termination of retail service.

Notwithstanding any other provision of this section, a telecommunications company shall not be exempt from any commission rule established under authority delegated to the state commission pursuant to federal statute, rule or order, including but not limited to universal service funds, number pooling and conservation efforts, or any authority delegated to the state commission to facilitate or enforce any interconnection obligation or other intercarrier issue, including but not limited to, intercarrier compensation, network configuration or other such matters. Notwithstanding other provisions of this chapter or chapter 386, a telecommunications company may, upon written notice to the commission, elect to be exempt from any requirement to file or maintain with the commission any tariff or schedule of rates, rentals, charges, privileges, facilities, rules, regulations, or forms of contract for telecommunications services offered or provided to residential or business retail end user customers and instead, shall publish generally available retail prices for those services available to the public by posting such prices on a publicly accessible website. Nothing in this section shall affect the rights and obligations of any entity, including the commission, established pursuant to federal law, including 47 U.S.C. Sections 251 and 252, any state law, rule, regulation, or order related to wholesale rights and obligations, or any tariff or schedule that is filed with and maintained by the commission.

Approved July 8, 2011

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HB 339 [SS HB 339]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Changes the laws regarding telecommunications as they relate to the carrier of last resort obligations**

AN ACT to repeal section 392.460, RSMo, and to enact in lieu thereof one new section relating to telecommunications.

**SECTION**

A. Enacting clause.

392.460. Abandonment of service, commission must approve — definitions — carriers of last resort, relief from obligation, when, criteria, waivers — exemption for St. Louis County\*, St. Louis City, portions of Kansas City.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Section 392.460, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 392.460, to read as follows:

**392.460. ABANDONMENT OF SERVICE, COMMISSION MUST APPROVE — DEFINITIONS — CARRIERS OF LAST RESORT, RELIEF FROM OBLIGATION, WHEN, CRITERIA, WAIVERS — EXEMPTION FOR ST. LOUIS COUNTY\*, ST. LOUIS CITY, PORTIONS OF KANSAS CITY. — 1.** As used in this section, the following words shall mean:

(1) "Alternative service provider", any person or entity providing local voice services, or any person or entity allowing another person or entity to use its equipment or facilities to provide local voice services, or any person or entity securing rights to select an alternative service provider for a property owner or developer. Alternative service provider shall not include an incumbent local exchange carrier providing service within its commission-approved local exchange service area;

(2) "Greenfield area", real property that requires entirely new construction of local loops or local connectivity in addition to the deployment of any necessary switching and other network equipment to serve new real property developments;

(3) "Local voice service" or "local voice services", any two-way voice service offered through any form of technology that is capable of placing calls to or receiving calls from a provider of basic local telecommunications services, including voice over internet protocol services;

(4) "Owner or developer", an entity that owns or develops a business or residential property, any condominium association or homeowner's association thereof, any person or entity having ownership in or control over the property, or any person acting on behalf of such owner or developer;

(5) "Real property", any single tenant or multitenant business or residential property, subdivisions, condominiums, apartments, office buildings, or office parks.

2. No telecommunications company authorized by the commission to provide or offer basic local or basic interexchange telecommunications service within the state of Missouri on January 1, 1984, shall abandon such service until and unless it shall demonstrate, and the commission finds, after notice and hearing, that such abandonment will not deprive any customers of basic local or basic interexchange telecommunications service or [access thereto] **access to local voice service** and is not otherwise contrary to the public interest.

3. Notwithstanding other provisions of this chapter or chapter 386, a local exchange carrier obligated under this section to serve as the carrier of last resort in greenfield areas shall automatically be relieved of such obligation and shall not be obligated to provide basic local voice service or any telecommunications service to any occupants of real property if the owner or developer of the real property, or a person acting on behalf of the owner or developer of real property, engages in any of the following acts:

(1) Permits an alternative service provider to install its facilities or equipment used to provide local voice services based on a condition of exclusion of the local exchange carrier during the construction phase of the real property;

(2) Accepts or agrees to accept incentives or rewards from an alternative service provider that are contingent upon the provision of any or all local voice services by one or more alternative service providers to the exclusion of the local exchange carrier; or

(3) Collects from the occupants or residents of the real property mandatory charges for the provision of any local voice service provided by an alternative service provider to the occupants or residents in any manner, including, but not limited to, collection through rent, fees, or dues.

4. The local exchange carrier relieved of its carrier of last resort obligation to provide basic local telecommunications service to the occupants of real property under subsection 3 of this section shall notify the commission in writing of that fact within one hundred twenty days after receiving knowledge of the existence of such fact.

5. A local exchange carrier that is not relieved of its carrier of last resort obligation under subsections 2 and 3 of this section may seek a waiver of its carrier of last resort obligation from the commission for good cause shown based on the facts and circumstances of the provision of local voice service or internet access services or video services to a particular real property. Upon petition for such relief, notice shall be given by the local exchange carrier at the same time to the relevant owner or developer. The commission shall make a determination concerning the petition on or before ninety days after such petition is filed, unless the commission determines that good cause exists to delay the determination for an additional ninety days and that such delay is not likely to have a materially adverse effect upon consumers of telecommunications services.

6. If a local exchange carrier is relieved of its carrier of last resort obligation under subsection 3 or 5 of this section, the owner or developer shall notify all occupants and any subsequent owner of the specific real property of the following:

(1) That the incumbent local exchange carrier does not have facilities installed to serve the specific real property, and that such carrier has been relieved of its carrier of last resort obligations; and

(2) The name of the person that will be providing local telecommunications service to the real property, and the type of technology that will be used to provide such service.

7. If all conditions described in subsection 3 and the conditions that form the basis for relief under subsection 5 of this section cease to exist at the property, no company is providing local voice service there, and either:

(1) The owner or developer requests in writing that the local exchange carrier make local voice service available to occupants of the real property and the owner or developer confirms in writing that all conditions described in subsections 3 and 5 of this section have ceased to exist at the property; or

(2) A petition is submitted to the local exchange carrier by at least fifty percent plus one of the residents of the real property requesting that the local exchange carrier make local voice service available to the residents and the petition confirms in writing that all conditions described in subsections 3 and 5 of this section have ceased to exist at the property;

the carrier of last resort obligation under this section shall again apply to the local exchange carrier at the real property. The local exchange carrier shall provide notice to the commission that it is assuming the carrier of last resort obligation. The local exchange carrier may require that the owner or developer pay the local exchange carrier in advance a reasonable fee to recover costs that exceed the costs that would have been incurred to construct or acquire facilities to serve customers at the real property initially. The commission may verify that the fee enables the local exchange carrier to recover its costs that exceed the costs that would have been incurred to construct or acquire facilities to serve customers at the real property initially, including, but not limited to, amounts necessary to install or retrofit any facilities or equipment, to cut or trench sidewalks and streets, and to restore roads, sidewalks, block walls, or landscapes to original conditions. The local exchange carrier shall have a reasonable period of time, but not to exceed one hundred eighty days, following the request or petition under this subsection to provide local voice service.

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If the conditions described in subsection 3 of this section or the conditions that form the basis for relief under subsection 5 of this section again exist at the real property, the relief in subsection 3 or 5 of this section shall again apply.

8. When real property is located in a greenfield area, a carrier of last resort shall not automatically be excused from its obligations under subsection 3 of this section unless the alternative service provider possesses or will possess at the time of commencement of service the capability to provide local voice service or the functional equivalent of such service through any form of technology.

9. If an owner or developer of real property permits an alternative service provider to install its facilities or equipment used to provide local voice service to such property based on a condition of exclusion of the local exchange carrier, the owner or developer shall provide written notice to the purchaser of any such real property that there is an exclusion of that local exchange carrier and that the alternative service provider is the exclusive provider of service to such property.

10. An incumbent local exchange carrier shall have the right to require a payment from an owner or developer in cases where the costs of extending facilities to serve a multi tenant business or residential property, including, but not limited to, apartments, condominiums, subdivisions, office buildings, or office parks are not economically reasonable. The terms and conditions applicable to such payments shall be specified in the incumbent local exchange carrier's tariffs. An incumbent local exchange carrier shall not be obligated to provide local voice service or any other telecommunications service without payment specified in the incumbent local exchange carrier's tariff.

11. Notwithstanding other provisions of this chapter or chapter 386, a telecommunications company may meet its carrier of last resort obligations and its obligations to provide or offer basic local or basic interexchange telecommunications service by providing local voice service using any technology. If a telecommunications company uses a wireless technology, such company shall meet such obligations by using a technology that provides 911 caller location technology that meets or exceeds wireless Phase II enhanced 911 rules requirements, as adopted by the Federal Communications Commission.

12. Any local exchange carrier relieved of its carrier of last resort obligation in a particular area under subsection 3 or 5 of this section shall not be deemed to have lost its general designation as carrier of last resort for essential local telecommunications service outside that area for purposes of subsection 5 of section 392.248.

13. When a local exchange carrier is relieved of the carrier of last resort obligation to serve in a designated area, in no instance shall the carrier of last resort obligation be transferred to any alternative service provider or provider of local voice service, including interconnected voice over internet protocol service in that designated service area.

14. Notwithstanding other provisions of this chapter or chapter 386, any telecommunications company may, upon notice to the commission, elect to no longer be designated as a carrier of last resort for any telecommunications service within any county with a charter form of government and with more than eight hundred thousand inhabitants, any city not within a county, and the portion of any home rule city with more than four hundred thousand inhabitants and located in more than one county that is located in any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants. Upon such election, a telecommunications company shall not be required to provide or offer basic local or basic interexchange telecommunications service and may provide local voice service using any technology.

15. Notwithstanding any other provision of this section or other law to the contrary, no telecommunications company shall receive state high-cost universal service fund

support in a high-cost area as described under section 392.248 for any area where such company has been relieved of its carrier of last resort obligation under this section; however, such company shall not be ineligible to receive state high-cost universal service fund support in other areas where it retains the carrier of last resort obligation.

Approved June 22, 2011

## HB 340 [HB 340]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Allows counties of any classification to erect and maintain a jail or holding cell facility at a site other than the county seat and changes the laws regarding the circuit court in Cape Girardeau County**

AN ACT to repeal sections 49.310, 478.711, and 483.420, RSMo, and to enact in lieu thereof three new sections relating to the erection and maintenance of jails, with an emergency clause for a certain section.

### SECTION

#### A. Enacting clause.

49.310. County commission to erect and maintain courthouses, jails — issue bonds — certain counties authorized to maintain jails outside boundaries of county seat.

478.711. Circuit court, where may be held — probate division, where offices may be maintained.

483.420. Circuit clerk, office (Cape Girardeau County).

#### B. Emergency clause.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 49.310, 478.711, and 483.420, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 49.310, 478.711, and 483.420, to read as follows:

**49.310. COUNTY COMMISSION TO ERECT AND MAINTAIN COURTHOUSES, JAILS — ISSUE BONDS — CERTAIN COUNTIES AUTHORIZED TO MAINTAIN JAILS OUTSIDE BOUNDARIES OF COUNTY SEAT.** — 1. Except as provided in sections 221.400 to 221.420 and subsection 2 of this section, the county commission in each county in this state shall erect and maintain at the established seat of justice a good and sufficient courthouse, jail and necessary fireproof buildings for the preservation of the records of the county; except, that in counties having a special charter, the jail or workhouse may be located at any place within the county. In pursuance of the authority herein delegated to the county commission, the county commission may acquire a site, construct, reconstruct, remodel, repair, maintain and equip the courthouse and jail, and in counties wherein more than one place is provided by law for holding of court, the county commission may buy and equip or acquire a site and construct a building or buildings to be used as a courthouse and jail, and may remodel, repair, maintain and equip buildings in both places. The county commission may issue bonds as provided by the general law covering the issuance of bonds by counties for the purposes set forth in this section. In bond elections for these purposes in counties wherein more than one place is provided by law for holding of court, a separate ballot question may be submitted covering proposed expenditures in each separate site described therein, or a single ballot question may be submitted covering proposed expenditures at more than one site, if the amount of the proposed expenditures at each of the sites is specifically set out therein.

2. The county commission in all counties of the fourth classification and any county of the third, **second, or first** classification [with a population of at least fourteen thousand and not more than fourteen thousand five hundred inhabitants bordering a county of the first classification without a charter form of government with a population of at least eighty thousand and not more than eighty-three thousand inhabitants] may provide for the erection and maintenance of a good and sufficient jail or holding cell facility at a site in the county other than at the established seat of justice.

**478.711. CIRCUIT COURT, WHERE MAY BE HELD — PROBATE DIVISION, WHERE OFFICES MAY BE MAINTAINED.** — 1. Within Cape Girardeau County the circuit court [shall] **may** hold court in the courthouses at Jackson and at Cape Girardeau, and while holding court at Jackson may be known as the "Circuit Court of Cape Girardeau County at Jackson" and while holding court at Cape Girardeau may be known as the "Circuit Court of Cape Girardeau County at Cape Girardeau". All matters which are handled by circuit judges or associate circuit judges of the circuit court of Cape Girardeau County may be handled at either of the locations.

2. The probate division of the circuit court of Cape Girardeau County [shall] **may** maintain an office at the courthouse in Jackson and an office at the courthouse in Cape Girardeau.

**483.420. CIRCUIT CLERK, OFFICE (CAPE GIRARDEAU COUNTY).** — The circuit clerk of Cape Girardeau County [shall] **may** maintain and staff offices at the courthouses in Jackson and Cape Girardeau.

**SECTION B. EMERGENCY CLAUSE.** — Because immediate action is necessary to protect the citizens of this state, the repeal and reenactment of section 49.310 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 49.310 of section A of this act shall be in full force and effect upon its passage and approval.

Approved July 1, 2011

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## HB 344 [SCS HCS HB 344]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Establishes the Farm-to-Table Advisory Board and changes the laws regarding the Commodity Merchandising Council Program**

AN ACT to repeal section 275.360, RSMo, and to enact in lieu thereof two new sections relating to farming.

## SECTION

A. Enacting clause.

262.950. Board created, definitions, members, mission, duties — report — meetings — expiration date.

275.360. Refund of fees, request for.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Section 275.360, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 262.950 and 275.360, to read as follows:

**262.950. BOARD CREATED, DEFINITIONS, MEMBERS, MISSION, DUTIES — REPORT — MEETINGS — EXPIRATION DATE. — 1.** As used in this section, the following terms shall mean:

(1) "Locally grown agricultural products", food or fiber produced or processed by a small agribusiness or small farm;

(2) "Small agribusiness", an independent agribusiness located in Missouri with gross annual sales of less than five million dollars;

(3) "Small farm", an independent family-owned farm in Missouri with at least one family member working in the day-to-day operation of the farm.

2. There is hereby created an advisory board, which shall be known as the "Farm-to-Table Advisory Board". The board shall be made up of at least one representative from the following agencies: the University of Missouri-extension service, the department of agriculture, the department of elementary and secondary education, the department of economic development, the department of corrections, and the office of administration. In addition, the director of the department of agriculture shall appoint one person actively engaged in the practice of small agribusiness. The representative for the department of agriculture shall serve as the chairperson for the board and shall coordinate the board meetings. The board shall hold at least two meetings, but may hold more as it deems necessary to fulfill its requirements under this section. Staff of the department of agriculture may provide administrative assistance to the board if such assistance is required.

3. The mission of the board is to provide recommendations for strategies that:

(1) Allow schools and state institutions to more easily incorporate locally grown agricultural products into their cafeteria offerings, salad bars, and vending machines; and

(2) Increase public awareness of local agricultural practices and the role that local agriculture plays in sustaining healthy communities and supporting healthy lifestyles.

4. In fulfilling its mission under this section, the board shall:

(1) Investigate the status and availability of local, state, federal, and any other public or private resources that may be used to:

(a) Link schools and state institutions with local and regional farms for the purchase of locally grown agricultural products;

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- (b) Increase market opportunities for locally grown agricultural products;
- (c) Assist schools and other entities with education campaigns that teach children and the general public about the concepts of food production and consumption; the interrelationships between nutrition, food choices, obesity, and health; and the value of having an accessible supply of locally grown food;
- (2) Identify any type of barrier, which may include legal, logistical, technical, social, or financial, that prevents or hinders:
  - (a) Schools and state institutions from purchasing more locally grown agricultural products;
  - (b) The expansion of market opportunities for locally grown agricultural products;
  - (c) Schools and other entities from engaging in education campaigns to teach people about the concepts of food production and consumption; the interrelationships between nutrition, food choices, obesity, and health; and the value of having an accessible supply of locally grown food; and
- (3) Develop recommendations for:
  - (a) The maximization of existing public and private resources to accomplish the objectives in subsection 3 of this section;
  - (b) The development of new or expanded resources deemed necessary to accomplish the objectives in subsection 3 of this section, which may include resources such as training programs, grant programs, or database development; and
  - (c) The elimination of barriers that hinder the objectives in subsection 3 of this section, which may include changes to school or state institution procurement policies or procedures.
- 5. The board shall prepare a report containing its findings and recommendations and shall deliver such report to the governor, the general assembly, and to the director of each agency represented on the board by no later than August 31, 2012.
- 6. In conducting its work, the board may hold public meetings at which it may invite testimony from experts or it may solicit information from any party it deems may have information relevant to its duties under this section.
- 7. This section shall expire on August 31, 2012.

**275.360. REFUND OF FEES, REQUEST FOR.** — Any producer or grower may, by the use of forms provided by the director, have the fee paid and all future fees paid or collected from him pursuant to sections 275.300 to 275.370 refunded to him, provided such request for refund is in the office of the director within sixty days following the payment of such fee. Apples **and rice** will be exempt from this provision.

Approved July 7, 2011

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HB 354 [HCS HB 354]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Exempts a qualified plug-in electric drive vehicle from the state's motor vehicle emissions inspection program**

AN ACT to repeal section 643.315, RSMo, and to enact in lieu thereof one new section relating to exempting qualified plug-in electric drive vehicles from the motor vehicle emissions inspection program.

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## SECTION

## A. Enacting clause.

643.315. Motor vehicles subject to program, when, evidence of inspection and approval — exceptions — reciprocity with other states — dealer inspection, return of motor vehicle for failing inspection, options, violation.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Section 643.315, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 643.315, to read as follows:

**643.315. MOTOR VEHICLES SUBJECT TO PROGRAM, WHEN, EVIDENCE OF INSPECTION AND APPROVAL — EXCEPTIONS — RECIPROCITY WITH OTHER STATES — DEALER INSPECTION, RETURN OF MOTOR VEHICLE FOR FAILING INSPECTION, OPTIONS, VIOLATION.**

— 1. Except as provided in sections 643.300 to 643.355, all motor vehicles which are domiciled, registered or primarily operated in an area for which the commission has established a motor vehicle emissions inspection program pursuant to sections 643.300 to 643.355 shall be inspected and approved prior to sale or transfer; provided that, if such vehicle is inspected and approved prior to sale or transfer, such vehicle shall not be subject to another emissions inspection for ninety days after the date of sale or transfer of such vehicle. In addition, any such vehicle manufactured as an even-numbered model year vehicle shall be inspected and approved under the emissions inspection program established pursuant to sections 643.300 to 643.355 in each even-numbered calendar year and any such vehicle manufactured as an odd-numbered model year vehicle shall be inspected and approved under the emissions inspection program established pursuant to sections 643.300 to 643.355 in each odd-numbered calendar year. All motor vehicles subject to the inspection requirements of sections 643.300 to 643.355 shall display a valid emissions inspection sticker, and when applicable, a valid emissions inspection certificate shall be presented at the time of registration or registration renewal of such motor vehicle. The department of revenue shall require evidence of the safety and emission inspection and approval required by this section in issuing the motor vehicle annual registration in conformity with the procedure required by sections 307.350 to 307.390 and sections 643.300 to 643.355. The director of revenue may verify that a successful safety and emissions inspection was completed via electronic means.

2. The inspection requirement of subsection 1 of this section shall apply to all motor vehicles except:

(1) Motor vehicles with a manufacturer's gross vehicle weight rating in excess of eight thousand five hundred pounds;

(2) Motorcycles and motortricycles if such vehicles are exempted from the motor vehicle emissions inspection under federal regulation and approved by the commission by rule;

(3) Model year vehicles manufactured prior to 1996;

(4) Vehicles which are powered exclusively by electric or hydrogen power or by fuels other than gasoline which are exempted from the motor vehicle emissions inspection under federal regulation and approved by the commission by rule;

(5) Motor vehicles registered in an area subject to the inspection requirements of sections 643.300 to 643.355 which are domiciled and operated exclusively in an area of the state not subject to the inspection requirements of sections 643.300 to 643.355, but only if the owner of such vehicle presents to the department an affidavit that the vehicle will be operated exclusively in an area of the state not subject to the inspection requirements of sections 643.300 to 643.355 for the next twenty-four months, and the owner applies for and receives a waiver which shall be presented at the time of registration or registration renewal;

(6) New and unused motor vehicles, of model years of the current calendar year and of any calendar year within two years of such calendar year, which have an odometer reading of less than six thousand miles at the time of original sale by a motor vehicle manufacturer or licensed motor vehicle dealer to the first user;

- (7) Historic motor vehicles registered pursuant to section 301.131;
- (8) School buses;
- (9) Heavy-duty diesel-powered vehicles with a gross vehicle weight rating in excess of eight thousand five hundred pounds;

(10) New motor vehicles that have not been previously titled and registered, for the four-year period following their model year of manufacture, provided the odometer reading for such motor vehicles are under forty thousand miles at their first required biennial safety inspection conducted under sections 307.350 to 307.390; otherwise such motor vehicles shall be subject to the emissions inspection requirements of subsection 1 of this section during the same period that the biennial safety inspection is conducted; [and]

(11) Motor vehicles that are driven fewer than twelve thousand miles between biennial safety inspections; **and**

**(12) Qualified plug-in electric drive vehicles. For the purposes of this section, "qualified plug-in electric drive vehicle" shall mean a plug-in electric drive vehicle that is made by a manufacturer, has not been modified from original manufacturer specifications, and can operate solely on electric power and is capable of recharging its battery from an on-board generation source and an off-board electricity source.**

3. The commission may, by rule, allow inspection reciprocity with other states having equivalent or more stringent testing and waiver requirements than those established pursuant to sections 643.300 to 643.355.

4. (1) At the time of sale, a licensed motor vehicle dealer, as defined in section 301.550, may choose to sell a motor vehicle subject to the inspection requirements of sections 643.300 to 643.355 either:

- (a) With prior inspection and approval as provided in subdivision (2) of this subsection; or
- (b) Without prior inspection and approval as provided in subdivision (3) of this subsection.

(2) If the dealer chooses to sell the vehicle with prior inspection and approval, the dealer shall disclose, in writing, prior to sale, whether the vehicle obtained approval by meeting the emissions standards established pursuant to sections 643.300 to 643.355 or by obtaining a waiver pursuant to section 643.335. A vehicle sold pursuant to this subdivision by a licensed motor vehicle dealer shall be inspected and approved within the one hundred twenty days immediately preceding the date of sale, and, for the purpose of registration of such vehicle, such inspection shall be considered timely.

(3) If the dealer chooses to sell the vehicle without prior inspection and approval, the purchaser may return the vehicle within ten days of the date of purchase, provided that the vehicle has no more than one thousand additional miles since the time of sale, if the vehicle fails, upon inspection, to meet the emissions standards specified by the commission and the dealer shall have the vehicle inspected and approved without the option for a waiver of the emissions standard and return the vehicle to the purchaser with a valid emissions certificate and sticker within five working days or the purchaser and dealer may enter into any other mutually acceptable agreement. If the dealer chooses to sell the vehicle without prior inspection and approval, the dealer shall disclose conspicuously on the sales contract and bill of sale that the purchaser has the option to return the vehicle within ten days, provided that the vehicle has no more than one thousand additional miles since the time of sale, to have the dealer repair the vehicle and provide an emissions certificate and sticker within five working days if the vehicle fails, upon inspection, to meet the emissions standards established by the commission, or enter into any mutually acceptable agreement with the dealer. A violation of this subdivision shall be an unlawful practice as defined in section 407.020. No emissions inspection shall be required pursuant to sections 643.300 to 643.360 for the sale of any motor vehicle which may be sold without a certificate of inspection and approval, as provided pursuant to subsection 2 of section 307.380.

Approved May 5, 2011

## HB 358 [HB 358]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Changes the laws regarding the Police Retirement System of St. Louis**

AN ACT to repeal sections 86.252, 86.255, 86.256, 86.294, and 86.354, RSMo, and to enact in lieu thereof six new sections relating to police retirement.

**SECTION**

- A. Enacting clause.
- 86.252. Distribution of interest of member, when — distribution periods before January 1, 2003 — distributions on and after January 1, 2003.
- 86.255. Eligible rollover distribution payable, election to pay directly to plan — definitions — written explanation required by board, when — distribution made, when — prohibition on eligible rollover distributions to certain members, exception.
- 86.256. Annual benefit not to exceed certain amount — annual additions not to exceed certain amount — incorporation by reference of Internal Revenue Code.
- 86.294. Contributions to be accepted after January 1, 2002, limitations.
- 86.295. Death while performing qualified military service, benefit distribution, to whom.
- 86.354. Benefit vested and nonforfeitable, when — forfeitures, use of.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 86.252, 86.255, 86.256, 86.294, and 86.354, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 86.252, 86.255, 86.256, 86.294, 86.295, and 86.354, to read as follows:

**86.252. DISTRIBUTION OF INTEREST OF MEMBER, WHEN — DISTRIBUTION PERIODS BEFORE JANUARY 1, 2003 — DISTRIBUTIONS ON AND AFTER JANUARY 1, 2003.** — 1. Notwithstanding any provision of sections 86.200 to 86.366 to the contrary, the entire interest of a member shall be distributed or begin to be distributed no later than the member's required beginning date. The general required beginning date of a member's benefit is April first of the calendar year following the calendar year in which the member attains age seventy and one-half years or, if later, in which the member terminates employment as a police officer and actually retires.

2. All distributions required pursuant to this section prior to January 1, 2003, shall be determined and made in accordance with the income tax regulations under Section 401(a)(9) of the Internal Revenue Code in effect prior to January 1, 2003, including the minimum distribution incidental benefit requirement of Section 1.401(a)(9)-2 of the income tax regulations. As of the first distribution year, distributions, if not made in a single sum, may only be made over one of the following periods, or a combination thereof:

- (1) The life of the member;
- (2) The life of the member and a designated beneficiary;
- (3) A period certain not extending beyond the life expectancy of the member; or
- (4) A period certain not extending beyond the joint and last survivor expectancy of the member and a designated beneficiary.

3. (1) This subsection shall apply for purposes of determining required minimum distributions for calendar years beginning on and after January 1, 2003, and shall take precedence over any inconsistent provisions of section 86.200 to 86.366. All distributions required under this subsection shall be determined and made in accordance with the United States Treasury regulations under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended.

(2) (a) The member's entire interest shall be distributed or begin to be distributed to the member no later than the member's required beginning date.

(b) If the member dies before distributions begin, the member's entire interest shall be distributed or begin to be distributed no later than as follows:

a. If the member's surviving spouse is the member's sole designated beneficiary, distributions to the surviving spouse shall begin by December thirty-first of the calendar year immediately following the calendar year in which the member died, or by December thirty-first of the calendar year in which the member would have attained age seventy and one-half years, if later;

b. If the member's surviving spouse is not the member's sole designated beneficiary, distributions to the designated beneficiary shall begin by December thirty-first of the calendar year immediately following the calendar year in which the member died;

c. If there is no designated beneficiary as of September thirtieth of the calendar year following the calendar year of the member's death, the member's entire interest shall be distributed by December thirty-first of the calendar year containing the fifth anniversary of the member's death;

d. If the member's surviving spouse is the member's sole designated beneficiary and the surviving spouse dies after the member but before distribution to the surviving spouse begins, this paragraph, except for subparagraph a. of this paragraph, shall apply as if the surviving spouse were the member. For purposes of this paragraph and subdivision (5) of this subsection, distributions shall be considered to begin on the member's required beginning date, or if subparagraph d. of this paragraph applies, the date distributions are required to begin to the surviving spouse under subparagraph a. of this paragraph. If annuity payments irrevocably commence to the member before the member's required beginning date, or to the member's surviving spouse before the date of distributions are required to begin to the surviving spouse under subparagraph a. of this paragraph, the date of distributions shall be considered to begin the date distributions actually commence.

(c) Unless the member's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions shall be made in accordance with subdivisions (3), (4), and (5) of this subsection. If the member's interest is distributed in the form of an annuity purchased from an insurance company, distributions shall be made in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, and the United States Treasury regulations.

(3) (a) If the member's interest is paid in the form of annuity distributions under sections 86.200 to 86.366, payments under the annuity shall satisfy the following requirements:

a. The annuity distributions shall be paid in periodic payments made at intervals not longer than one year;

b. The distribution period shall be over a life or lives, or over a period certain not longer than the period described in subdivision (4) or (5) of this subsection;

c. Once payments have begun over a period certain, the period certain shall not be changed even if the period certain is shorter than the maximum permitted;

d. Payments shall either be nonincreasing or increase only as [follows:

(i) By an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the federal Bureau of Labor Statistics;

(ii) To the extent of the reduction in the amount of the member's payments to provide for a surviving benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in subdivision (4) of this subsection dies or is no longer the member's beneficiary under a qualified domestic relations order with the meaning of Section 414(p) of the Internal Revenue Code of 1986, as amended;

(iii) To provide cash refunds of employee contributions upon the member's death; or

(iv) To pay increased benefits that result from a revision of sections 86.200 to 86.366] **permitted under Q&A-14 of Section 1.401(a)(9)-6 of the United States Treasury regulations.**

(b) The amount distributed on or before the member's required beginning date, or if the member dies before distribution begins, the date distributions are required to begin under subparagraph a. or b. of paragraph (b) of subdivision (2) of this subsection, shall be the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if the payment interval ends in the next calendar year. "Payment intervals" means the periods for which payments are received, such as bimonthly, monthly, semiannually, or annually. All of the member's benefit accruals as of the last day of the first distribution calendar year shall be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the member's required beginning date.

(c) Any additional benefits accruing to the member in a calendar year after the first distribution calendar year shall be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

(4) (a) If the member's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the member and a nonspouse beneficiary, annuity payments to be made on or after the member's required beginning date to the designated beneficiary after the member's death shall not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the member using the table set forth in Q&A-2 of Section 1.401(a)(9)-6T of the United States Treasury regulations.

(b) The period certain for an annuity distribution commencing during the member's lifetime shall not exceed the applicable distribution period for the member under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the United States Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the member reaches age seventy, the applicable distribution period for the member shall be the distribution period for age seventy under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the United States Treasury regulations plus the excess of seventy over the age of the member as of the member's birthday in the year that contained the annuity starting date.

(5) (a) If the member dies before the date distribution of his or her interest begins and there is a designated beneficiary, the member's entire interest shall be distributed, beginning no later than the time described in subparagraph a. or b. of paragraph (b) of subdivision (2) of this subsection, over the life of the designated beneficiary or over a period certain not exceeding:

a. Unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the member's death; or

b. If the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.

(b) If the member dies before the date distributions begin and there is no designated beneficiary as of September thirtieth of the calendar year following the calendar year of the member's death, distribution of the member's entire interest shall be completed by December thirty-first of the calendar year containing the fifth anniversary of the member's death.

(c) If the member dies before the date distribution of his or her interest begins, the member's surviving spouse is the member's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this subdivision shall apply as if the surviving spouse were the member; except that, the time by which distributions shall begin shall be determined without regard to subparagraph a. of paragraph (b) of subdivision (2) of this subsection.

(6) As used in this subsection, the following terms mean:

(a) "Designated beneficiary", the surviving spouse or the individual who is designated as the beneficiary under subdivision (4) of section 86.200 or any individual who is entitled to receive death benefits under section 86.283 or 86.287 and is the designated beneficiary under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, and Section 1.401(a)(9)-1, Q&A-4 of the United States Treasury regulations;

(b) "Distribution calendar year", a calendar year for which a minimum distribution is required. For distributions beginning before the member's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the member's required beginning date. For distributions beginning after the member's death, the first distribution calendar year is the calendar year in which distributions are required to begin under paragraph (b) of subdivision (2) of this subsection;

(c) "Life expectancy", life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the United States Treasury regulations;

(d) "Required beginning date", April first of the calendar year following the calendar year in which the member attains age seventy and one-half years or, if later, in which the member terminates employment as a police officer and actually retires.

(7) Notwithstanding any provision in this subsection to the contrary:

(a) A distribution for calendar years 2003, 2004, and 2005 shall not fail to satisfy Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, merely because the payments do not satisfy Section 1.401(a)(9)-1, Q&A-1 to Q&A-16 of the United States Treasury regulations, provided the payments satisfy Section 401(a)(9) of the Internal Revenue Code of 1986, as amended; and

(b) [In the case of an annuity distribution option provided under the terms of sections 86.200 to 86.366 shall not fail to satisfy Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, merely because the annuity payments do not satisfy the requirements of Section 1.401(a)(9)-1, Q&A-1 to Q&A-15 of the United States Treasury regulations, provided the distribution option satisfies Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, based on a reasonable and good faith interpretation of the provisions of Section 401(a)(9) of the Internal Revenue Code of 1986, as amended.] **Under Section 1.401(a)(9)-1, Q&A-2(d) of the United States Treasury regulations, the plan shall be treated as having complied with Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, for all years to which Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, applies to the plan if the plan complies with a reasonable and good faith interpretation of Section 401(a)(9) of the Internal Revenue Code of 1986, as amended.**

**86.255. ELIGIBLE ROLLOVER DISTRIBUTION PAYABLE, ELECTION TO PAY DIRECTLY TO PLAN — DEFINITIONS — WRITTEN EXPLANATION REQUIRED BY BOARD, WHEN — DISTRIBUTION MADE, WHEN — PROHIBITION ON ELIGIBLE ROLLOVER DISTRIBUTIONS TO CERTAIN MEMBERS, EXCEPTION. —** 1. Notwithstanding any other provision of the plan established in sections 86.200 to 86.366, if an eligible rollover distribution becomes payable to a distributee, the distributee may elect, at the time and in the manner prescribed by the board of trustees, to have any of the eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

2. For purposes of this section, the following terms mean:

(1) "Direct rollover", a payment by the board of trustees from the fund to the eligible retirement plan specified by the distributee;

(2) "Distributee", a member, a surviving spouse [or] , a spouse, **or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code of 1986, as amended, or, effective for distributions made on or after January 1, 2010, a nonspouse beneficiary;**

(3) "Eligible retirement plan", an individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code, or a qualified trust described in Section 401(a) of the Internal Revenue Code that accepts the distributee's eligible rollover distribution or, effective for eligible rollover distributions made on or after January 1, 2002, an annuity contract described in Section 403(b) of the Internal Revenue Code or an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan, and shall include, for eligible rollover distributions made on or after January 1, 2002, a distribution to a surviving spouse or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code. **Effective for distributions made on or after January 1, 2008, eligible retirement plan shall also include a Roth IRA as described in Section 408 of the Internal Revenue Code of 1986, as amended, provided that for distributions made on or after January 1, 2010, to a nonspouse beneficiary, an eligible retirement plan shall include only an individual retirement account described in Section 408(a) of the Internal Revenue Code of 1986, as amended, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code of 1986, as amended, or a Roth IRA described in Section 408A of the Internal Revenue Code of 1986, as amended, that is an inherited individual retirement account or annuity under Section 408 of the Internal Revenue Code of 1986, as amended;**

(4) "Eligible rollover distribution", any distribution of all or any portion of a member's benefit, other than:

(a) A distribution that is one of a series of substantially equal periodic payments, made not less frequently than annually, for the life or life expectancy of the distributee or for the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more;

(b) The portion of a distribution that is required under Section 401(a)(9) of the Internal Revenue Code; or

(c) Effective for distributions made on or after January 1, 2002, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includable in gross income. However, **for distributions made before January 1, 2007**, such portion may be transferred only to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Internal Revenue Code that agrees to separately account for amounts so transferred, including to separately account for the portion of such distribution which is includable in gross income and the portion that is not so includable; **for distributions made on or after January 1, 2007, such portion may also be transferred to an annuity contract described in Section 403(b) of the Internal Revenue Code of 1986, as amended, or to a qualified defined benefit plan described in Section 401(a) of the Internal Revenue Code of 1986, as amended, that agrees to separately account for amounts so transferred, including to separately account for the portion of such distribution which is includable in gross income and the portion that is not so includable; and for distributions made on or after January 1, 2008, such portion may also be transferred to a Roth IRA described in Section 408A of the Internal Revenue Code of 1986, as amended.**

3. The board of trustees shall, at least thirty days, but not more than ninety days, before making an eligible rollover distribution, provide a written explanation to the distributee in accordance with the requirements of Section 402(f) of the Internal Revenue Code.

4. If the eligible rollover distribution is not subject to Sections 401(a) and 417 of the Internal Revenue Code, such eligible rollover distribution may be made less than thirty days after the distributee has received the notice described in subsection 3 of this section, provided that:



(1) The board of trustees clearly informs the distributee of the distributee's right to consider whether to elect a direct rollover, and if applicable, a particular distribution option, for at least thirty days after the distributee receives the notice; and

(2) The distributee, after receiving the notice, affirmatively elects a distribution.

5. Notwithstanding any provision of sections 86.200 to 86.366 to the contrary, in no event shall the trustees pay an eligible rollover distribution in the amount of five thousand dollars or less to a member or retired member who has not attained age sixty-two unless such member or retired member consents in writing either to receive such distribution in cash or to have such distribution directly rolled over in accordance with the provisions of this section.

**86.256. ANNUAL BENEFIT NOT TO EXCEED CERTAIN AMOUNT — ANNUAL ADDITIONS NOT TO EXCEED CERTAIN AMOUNT — INCORPORATION BY REFERENCE OF INTERNAL REVENUE CODE.** — 1. In no event shall a member's annual benefit paid under the plan established pursuant to sections 86.200 to 86.366 exceed the amount specified in Section 415(b)(1)(A) of the Internal Revenue Code, as adjusted for any applicable increases in the cost of living, as in effect on the last day of the plan year, including any increases after the member's termination of employment.

2. Effective for limitation years beginning after December 31, 2001, in no event shall the annual additions to the plan established pursuant to sections 86.200 to 86.366, on behalf of the member, including the member's own mandatory contributions, exceed the [lesser of:

(1) One hundred percent of the member's compensation, as defined for purposes of Section 415(c)(3) of the Internal Revenue Code, for the limitation year; or

(2) Forty thousand dollars, as adjusted for increases in the cost of living under Section 415(d) of the Internal Revenue Code.

3. Effective for limitation years beginning prior to January 1, 2000, in no event shall the combined plan limitation of Section 415(e) of the Internal Revenue Code be exceeded; provided that, if necessary to avoid exceeding such limitation, the member's annual benefit under the plan established pursuant to sections 86.200 to 86.366 shall be reduced to the extent necessary to satisfy such limitations] **amount specified in Section 415(c) of the Internal Revenue Code of 1986, as amended, as adjusted for any applicable increases in the cost of living under Section 415(d) of the Internal Revenue Code of 1986, as amended, as in effect on the last day of the plan year.**

[4.] 3. For purposes of this section, Section 415 of the Internal Revenue Code, including the special rules under Section 415(b) applicable to governmental plans and qualified participants employed by a police or fire department, is incorporated in this section by reference.

**86.294. CONTRIBUTIONS TO BE ACCEPTED AFTER JANUARY 1, 2002, LIMITATIONS.** —

1. Notwithstanding any other provision of the plan established in sections 86.200 to 86.366, and subject to the provisions of subsections 2[, 3, and 4] **and 3** of this section, effective January 1, 2002, the plan shall accept a member's rollover contribution or direct rollover of an eligible rollover distribution made on or after January 1, 2002, from a qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code, or an annuity contract described in Section 403(b) of the Internal Revenue Code, or an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, **and that would otherwise be includable in gross income.** The plan will also accept a member's rollover contribution of the portion of a distribution from an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code that is eligible to be rolled over and would otherwise be includable in gross income. **The plan will accept a member's direct rollover of an eligible rollover distribution made on or after October 1, 2011, from a qualified plan described in**

Section 401(a) or 403(a) of the Internal Revenue Code of 1986, as amended, or an annuity contract described in Section 403(b) of the Internal Revenue Code of 1986, as amended, that includes after-tax employee contributions, other than Roth contributions described in Section 402A of the Internal Revenue Code of 1986, as amended, that are not includable in gross income and shall separately account for such after-tax amounts.

2. Except to the extent specifically permitted under procedures established by the board of trustees, the amount of such rollover contribution or direct rollover of an eligible rollover distribution shall not exceed the amount required to repay the member's accumulated contributions plus the applicable members' interest thereon from the date of withdrawal to the date of repayment in order to receive credit for such prior service in accordance with section 86.210, to the extent that Section 415 of the Internal Revenue Code does not apply to such repayment by reason of subsection (k)(3) thereof, or to purchase permissive service credit, as defined in Section 415(n)(3)(A) of the Internal Revenue Code, for the member under the plan in accordance with the provisions of section 105.691.

3. Acceptance of any rollover contribution or direct rollover of an eligible rollover distribution under this section shall be subject to the approval of the board of trustees and shall be made in accordance with procedures established by the board of trustees.

[4. In no event shall the plan accept any rollover contribution or direct rollover distribution to the extent that such contribution or distribution consists of after-tax employee contributions which are not includable in gross income.]

**86.295. DEATH WHILE PERFORMING QUALIFIED MILITARY SERVICE, BENEFIT DISTRIBUTION, TO WHOM.** — Notwithstanding any provision of sections 86.200 to 86.366 to the contrary, if a member dies on or after January 1, 2007, while performing qualified military service, as defined in Section 414(u)(5) of the Internal Revenue Code of 1986, as amended, the member's surviving spouse and other dependents shall be entitled to any benefits, other than benefit increases relating to the period of qualified military service, and the rights and features associated with those benefits which would have been provided under sections 86.280 and 86.290 if the member had returned to active service as a police officer and died while in active service.

**86.354. BENEFIT VESTED AND NONFORFEITABLE, WHEN — FORFEITURES, USE OF.** — A member's benefit shall be one hundred percent vested and nonforfeitable upon the first of the following to occur:

(1) The member's attainment of age fifty-five, the normal retirement age [of the earlier of age fifty-five] ; or

(2) The member's completion of twenty years of creditable service regardless of age; or[, if earlier, and to the extent funded, upon]

(3) The termination of the plan established pursuant to sections 86.200 to 86.366, to the extent the plan is funded.

Forfeitures of any nature under such plan shall not be used to increase the benefits of any member, but shall be used to reduce the city's contributions pursuant to section 86.243.

Approved May 2, 2011

HB 388 [SCS HB 388]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Removes the provisions requiring the Department of Health and Senior Services to provide information to physicians to give to breast implantation patients regarding advantages, disadvantages, and risks**

AN ACT to repeal section 376.1250, RSMo, and to enact in lieu thereof one new section relating to patient information provided in advance of certain surgical procedures.

SECTION

A. Enacting clause.

376.1250. Cancer screening, health insurance coverage required, when, types.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Section 376.1250, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 376.1250, to read as follows:

**376.1250. CANCER SCREENING, HEALTH INSURANCE COVERAGE REQUIRED, WHEN, TYPES.** — 1. All individual and group health insurance policies providing coverage on an expense-incurred basis, individual and group service or indemnity type contracts issued by a nonprofit corporation, individual and group service contracts issued by a health maintenance organization, all self-insured group arrangements to the extent not preempted by federal law and all managed health care delivery entities of any type or description, that are delivered, issued for delivery, continued or renewed on or after August 28, 1999, and providing coverage to any resident of this state shall provide benefits or coverage for:

(1) A pelvic examination and Pap smear for any nonsymptomatic woman covered under such policy or contract, in accordance with the current American Cancer Society guidelines;

(2) A prostate examination and laboratory tests for cancer for any nonsymptomatic man covered under such policy or contract, in accordance with the current American Cancer Society guidelines; and

(3) A colorectal cancer examination and laboratory tests for cancer for any nonsymptomatic person covered under such policy or contract, in accordance with the current American Cancer Society guidelines.

2. Coverage and benefits related to the examinations and tests as required by this section shall be at least as favorable and subject to the same dollar limits, deductible, and co-payments as other covered benefits or services.

3. Nothing in this act shall apply to accident-only, hospital indemnity, Medicare supplement, long-term care, or other limited benefit health insurance policies.

4. The provisions of this section shall not apply to short-term major medical policies of six months or less duration.

5. The attending physician shall [make available to any patient] **advise the patient of** the advantages, disadvantages, and risks, including cancer, associated with breast implantation prior to such operation [as provided by the department of health and senior services].

6. [The department of health and senior services shall:

(1) Make available a standardized written summary that would be clear to a prudent lay person that:

(a) Contains general information on breast implantation; and

(b) Discloses potential dangers and side effects of a breast implantation operation;

(2) Update the standardized written summary as deemed necessary by the department of health and senior services; and

(3) By January 1, 2000, the department shall make available the standardized written summary to all hospitals, clinics, and physicians' offices that perform breast implantation.

7. The attending physician satisfies the requirements of subsection 5 of this section if:

(1) The physician provides the breast implantation patient with the standardized written summary described in subsection 2 of this section;

(2) The patient receives the standardized written summary at least five days before the breast implantation operation; and

(3) The patient signs a statement, made available by the department of health and senior services, acknowledging the patient's receipt of the standardized written summary.

8. Failure of the department of health and senior services to make the summary available, as described in subsection 6 of this section, shall be an affirmative defense in an action alleging a violation of subsection 5 of this section for the attending physician.

9.] Nothing in this section shall alter, impair or otherwise affect claims, rights or remedies available pursuant to law.

Approved June 30, 2011

## HB 407 [HCS HB 407]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

### **Prohibits a person from preparing or issuing a certificate of insurance form unless it has been filed with the Department of Insurance, Financial Institutions and Professional Registration**

AN ACT to amend chapter 379, RSMo, by adding thereto one new section relating to certificates of insurance for property and casualty insurance coverage.

#### SECTION

A. Enacting clause.

379.108. Form of certificate to be filed with director — definitions — contents — standard forms — false or misleading information prohibited — applicability — fee — violations, effect of — rulemaking authority.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Chapter 379, RSMo, is amended by adding thereto one new section, to be known as section 379.108, to read as follows:

**379.108. FORM OF CERTIFICATE TO BE FILED WITH DIRECTOR — DEFINITIONS — CONTENTS — STANDARD FORMS — FALSE OR MISLEADING INFORMATION PROHIBITED — APPLICABILITY — FEE — VIOLATIONS, EFFECT OF — RULEMAKING AUTHORITY. — 1. As used in this section, the following terms shall mean:**

(1) "Certificate of insurance", any document or instrument, no matter how titled or described, which is prepared or issued by an insurer or insurance producer as a statement of property or casualty insurance coverage. Certificate of insurance shall not include a policy of insurance, insurance binder, or evidence of commercial property insurance required by a lender in a lending transaction involving a mortgage, lien, deed of trust, or other security interest in or on any real or personal property as security for a loan;

(2) "Certificate holder", any person, other than a policyholder, that requests, obtains, or possesses a certificate of insurance;

(3) "Director", the director of the department of insurance, financial institutions and professional registration;

(4) "Insurance producer", the same meaning as such term is defined in section 375.012;

(5) "Insurer", any insurance company or mutual formed or regulated under the provisions of chapter 379 or 380, and any other person engaged in the business of making insurance or surety contracts, including self-insurers;

(6) "Person", any individual, partnership, corporation, association, or other legal entity, including any government or governmental subdivision or agency;

(7) "Policyholder", a person who has contracted with a property or casualty insurer for insurance coverage.

2. No person shall prepare, issue, or request the issuance of a certificate of insurance unless the form has been filed with the director. No person shall alter or modify a filed certificate of insurance form.

3. Each certificate of insurance shall contain the following or similar statement:

"This certificate of insurance is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage, terms, exclusions and conditions afforded by the policies referenced herein."

4. Standard certificate of insurance forms promulgated by the Association for Cooperative Operations Research and Development or the Insurance Services Office are deemed in compliance when filed with the director and may be adopted and used by any of their respective members.

5. No person, wherever located, shall demand or request the issuance of a certificate of insurance from an insurer, insurance producer, or policyholder that contains any false or misleading information concerning the policy of insurance to which the certificate makes reference.

6. No person, wherever located, shall knowingly prepare or issue a certificate of insurance that contains any false or misleading information or that purports to affirmatively or negatively alter, amend, or extend the coverage or rights provided by the policy of insurance to which the certificate makes reference.

7. No person shall prepare, issue, or request, either in addition to or in lieu of a certificate of insurance, an opinion letter or other document or correspondence that is inconsistent with this section; except that, an insurer or insurance producer may prepare or issue an addendum to a certificate that lists the forms and endorsements by a policy of insurance and otherwise complies with the requirements of this section.

8. The provisions of this section shall apply to all certificate holders, policyholders, insurers, insurance producers, and certificate of insurance forms issued as a statement of insurance coverage on property operations or risks located in this state, regardless of where the certificate holder, policyholder, or insurance producer is located.

9. A certificate of insurance is not a policy of insurance and does not affirmatively or negatively amend, extend, or alter coverage afforded by the policy to which the certificate of insurance makes reference. A certificate of insurance shall not confer to a certificate holder new or additional rights beyond what the referenced policy of insurance expressly provides.

10. No certificate of insurance shall contain references or opinions on the effect of any contracts, including construction or service contracts, other than the referenced contract of insurance. Notwithstanding any requirement, term, or condition of any contract or other document with respect to which a certificate of insurance may be issued or may pertain, the insurance afforded by the referenced policy of insurance is subject to all the terms, exclusions, and conditions of the policy itself.

11. A certificate holder shall only have a legal right to notice of cancellation, nonrenewal, or any material change, or any similar notice concerning a policy of insurance if the person is named within the policy or any endorsement or rider and the policy or

endorsement or rider requires notice to be provided. The terms and conditions of the notice, including the required timing of the notice, are governed by the policy of insurance and shall not be created or altered by a certificate of insurance.

12. An insurance producer may charge a reasonable service fee for issuing a certificate to a policyholder or certificate holder. Such fee shall be considered a permissible incidental fee under section 375.052.

13. Any certificate of insurance or any other document or correspondence prepared, issued, or requested in violation of this section shall be null and void and of no force and effect.

14. If the director determines that a person has violated this section, the director may issue such administrative orders as authorized under section 374.046. A violation of this section is a level two violation under section 374.049.

15. The director shall have the power to examine and investigate the activities of any person that the director reasonably believes has been or is engaged in an act or practice prohibited by this section. The director shall have the power to enforce the provisions of this section and impose any authorized penalty or remedy against any person who violates this section.

16. The director may promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2011, shall be invalid and void.

17. Any lender requesting use of an evidence of commercial property insurance exempted under subdivision (1) of subsection 1 of this section which has not been approved for use by the insurer issuing the insurance policy and the insurance producer has advised the lender in writing that the insurance provider has not been authorized to use the requested evidence of commercial insurance shall have no cause of action against an insurance producer arising from the use of such form, except for acts of intentional misrepresentation or fraud.

Approved June 30, 2011

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## HB 412 [SCS HCS HB 412]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

### **Changes the laws regarding pharmacies**

AN ACT to repeal sections 208.798, 338.010, 338.055, 338.140, 338.150, 338.210, 338.220, 338.240, and 338.330, RSMo, and to enact in lieu thereof nine new sections relating to pharmacy, with an emergency clause for a certain section.

#### SECTION

A. Enacting clause.

208.798. Termination date.

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- 338.010. Practice of pharmacy defined — auxiliary personnel — written protocol required, when — nonprescription drugs — rulemaking authority — therapeutic plan requirements — veterinarian defined.
- 338.055. Denial, revocation or suspension of license, grounds for — expedited procedure — additional discipline authorized, when.
- 338.140. Board of pharmacy, powers, duties — advisory committee, appointment, duties — letters of reprimand, censure or warning.
- 338.150. Inspections by authorized representatives of board, where.
- 338.210. Pharmacy defined — practice of pharmacy to be conducted at pharmacy location — rulemaking authority.
- 338.220. Operation of pharmacy without permit or license unlawful — application for permit, classifications, fee — duration of permit.
- 338.240. Evidence required for issuance of permit — veterinary permit pharmacy, designation of supervising registered pharmacist, when.
- 338.330. Definitions.
  - B. Emergency clause.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 208.798, 338.010, 338.055, 338.140, 338.150, 338.210, 338.220, 338.240, and 338.330, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 208.798, 338.010, 338.055, 338.140, 338.150, 338.210, 338.220, 338.240, and 338.330, to read as follows:

**208.798. TERMINATION DATE.** — [1. The provisions of sections 208.550 to 208.568 shall terminate following notice to the revisor of statutes by the Missouri RX plan advisory commission that the Medicare Prescription Drug, Improvement and Modernization Act of 2003 has been fully implemented.

2. Pursuant to section 23.253 of the Missouri sunset act, the provisions of the new program authorized under sections 208.780 to 208.798 shall automatically sunset August 28, 2011, unless reauthorized by an act of the general assembly] **The provisions of sections 208.780 to 208.798 shall terminate on August 28, 2014.**

**338.010. PRACTICE OF PHARMACY DEFINED — AUXILIARY PERSONNEL — WRITTEN PROTOCOL REQUIRED, WHEN — NONPRESCRIPTION DRUGS — RULEMAKING AUTHORITY — THERAPEUTIC PLAN REQUIREMENTS — VETERINARIAN DEFINED.** — 1. The "practice of pharmacy" means the interpretation, implementation, and evaluation of medical prescription orders, including **any legend drugs under 21 U.S.C. Section 353**; receipt, transmission, or handling of such orders or facilitating the dispensing of such orders; the designing, initiating, implementing, and monitoring of a medication therapeutic plan as defined by the prescription order so long as the prescription order is specific to each patient for care by a pharmacist; the compounding, dispensing, labeling, and administration of drugs and devices pursuant to medical prescription orders and administration of viral influenza, pneumonia, shingles and meningitis vaccines by written protocol authorized by a physician for persons twelve years of age or older as authorized by rule or the administration of pneumonia, shingles, and meningitis vaccines by written protocol authorized by a physician for a specific patient as authorized by rule; the participation in drug selection according to state law and participation in drug utilization reviews; the proper and safe storage of drugs and devices and the maintenance of proper records thereof; consultation with patients and other health care practitioners, **and veterinarians and their clients about legend drugs**, about the safe and effective use of drugs and devices; and the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management and control of a pharmacy. No person shall engage in the practice of pharmacy unless he is licensed under the provisions of this chapter. This chapter shall not be construed to prohibit the use of auxiliary personnel under the direct supervision of a pharmacist from assisting the pharmacist in any of his **or her** duties. This assistance in no way is intended to relieve the pharmacist from his **or her** responsibilities for compliance with this chapter and he **or she** will be

responsible for the actions of the auxiliary personnel acting in his **or her** assistance. This chapter shall also not be construed to prohibit or interfere with any legally registered practitioner of medicine, dentistry, **or** podiatry, or veterinary medicine **only for use in animals**, or the practice of optometry in accordance with and as provided in sections 195.070 and 336.220 in the compounding, **administering, prescribing,** or dispensing of his **or her** own prescriptions.

2. Any pharmacist who accepts a prescription order for a medication therapeutic plan shall have a written protocol from the physician who refers the patient for medication therapy services. The written protocol and the prescription order for a medication therapeutic plan shall come from the physician only, and shall not come from a nurse engaged in a collaborative practice arrangement under section 334.104, or from a physician assistant engaged in a supervision agreement under section 334.735.

3. Nothing in this section shall be construed as to prevent any person, firm or corporation from owning a pharmacy regulated by sections 338.210 to 338.315, provided that a licensed pharmacist is in charge of such pharmacy.

4. Nothing in this section shall be construed to apply to or interfere with the sale of nonprescription drugs and the ordinary household remedies and such drugs or medicines as are normally sold by those engaged in the sale of general merchandise.

5. No health carrier as defined in chapter 376 shall require any physician with which they contract to enter into a written protocol with a pharmacist for medication therapeutic services.

6. This section shall not be construed to allow a pharmacist to diagnose or independently prescribe pharmaceuticals.

7. The state board of registration for the healing arts, under section 334.125, and the state board of pharmacy, under section 338.140, shall jointly promulgate rules regulating the use of protocols for prescription orders for medication therapy services and administration of viral influenza vaccines. Such rules shall require protocols to include provisions allowing for timely communication between the pharmacist and the referring physician, and any other patient protection provisions deemed appropriate by both boards. In order to take effect, such rules shall be approved by a majority vote of a quorum of each board. Neither board shall separately promulgate rules regulating the use of protocols for prescription orders for medication therapy services and administration of viral influenza vaccines. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

8. The state board of pharmacy may grant a certificate of medication therapeutic plan authority to a licensed pharmacist who submits proof of successful completion of a board-approved course of academic clinical study beyond a bachelor of science in pharmacy, including but not limited to clinical assessment skills, from a nationally accredited college or university, or a certification of equivalence issued by a nationally recognized professional organization and approved by the board of pharmacy.

9. Any pharmacist who has received a certificate of medication therapeutic plan authority may engage in the designing, initiating, implementing, and monitoring of a medication therapeutic plan as defined by a prescription order from a physician that is specific to each patient for care by a pharmacist.

10. Nothing in this section shall be construed to allow a pharmacist to make a therapeutic substitution of a pharmaceutical prescribed by a physician unless authorized by the written protocol or the physician's prescription order.

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**338.055. DENIAL, REVOCATION OR SUSPENSION OF LICENSE, GROUNDS FOR — EXPEDITED PROCEDURE — ADDITIONAL DISCIPLINE AUTHORIZED, WHEN. —** 1. The board may refuse to issue any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section **or if the designated pharmacist-in-charge, manager-in-charge, or any officer, owner, manager, or controlling shareholder of the applicant has committed any act or practice in subsection 2 of this section.** The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license, or diploma from any school;

(8) Denial of licensure to an applicant or disciplinary action against an applicant or the holder of a license or other right to practice any profession regulated by this chapter granted by another state, territory, federal agency, or country whether or not voluntarily agreed to by the licensee or applicant, including, but not limited to, surrender of the license upon grounds for which denial or discipline is authorized in this state;

(9) A person is finally adjudged incapacitated by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not registered and currently eligible to practice under this chapter;

(11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;

(12) Failure to display a valid certificate or license if so required by this chapter or any rule promulgated hereunder;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(15) Violation of the drug laws or rules and regulations of this state, any other state or the federal government;

(16) The intentional act of substituting or otherwise changing the content, formula or brand of any drug prescribed by written or oral prescription without prior written or oral approval from the prescriber for the respective change in each prescription; provided, however, that nothing contained herein shall prohibit a pharmacist from substituting or changing the brand of any drug as provided under section 338.056, and any such substituting or changing of the brand of any drug as provided for in section 338.056 shall not be deemed unprofessional or dishonorable conduct unless a violation of section 338.056 occurs;

(17) Personal use or consumption of any controlled substance unless it is prescribed, dispensed, or administered by a health care provider who is authorized by law to do so.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 **of this section**, for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license, certificate, or permit. The board may impose additional discipline on a licensee, registrant, or permittee found to have violated any disciplinary terms previously imposed under this section or by agreement. The additional discipline may include, singly or in combination, censure, placing the licensee, registrant, or permittee named in the complaint on additional probation on such terms and conditions as the board deems appropriate, which additional probation shall not exceed five years, or suspension for a period not to exceed three years, or revocation of the license, certificate, or permit.

4. If the board concludes that a licensee or registrant has committed an act or is engaging in a course of conduct which would be grounds for disciplinary action which constitutes a clear and present danger to the public health and safety, the board may file a complaint before the administrative hearing commission requesting an expedited hearing and specifying the activities which give rise to the danger and the nature of the proposed restriction or suspension of the licensee's or registrant's license. Within fifteen days after service of the complaint on the licensee or registrant, the administrative hearing commission shall conduct a preliminary hearing to determine whether the alleged activities of the licensee or registrant appear to constitute a clear and present danger to the public health and safety which justify that the licensee's or registrant's license or registration be immediately restricted or suspended. The burden of proving that the actions of a licensee or registrant constitute a clear and present danger to the public health and safety shall be upon the state board of pharmacy. The administrative hearing commission shall issue its decision immediately after the hearing and shall either grant to the board the authority to suspend or restrict the license or dismiss the action.

5. If the administrative hearing commission grants temporary authority to the board to restrict or suspend the licensee's or registrant's license, such temporary authority of the board shall become final authority if there is no request by the licensee or registrant for a full hearing within thirty days of the preliminary hearing. The administrative hearing commission shall, if requested by the licensee or registrant named in the complaint, set a date to hold a full hearing under the provisions of chapter 621 regarding the activities alleged in the initial complaint filed by the board.

6. If the administrative hearing commission dismisses the action filed by the board pursuant to subsection 4 of this section, such dismissal shall not bar the board from initiating a subsequent action on the same grounds.

**338.140. BOARD OF PHARMACY, POWERS, DUTIES — ADVISORY COMMITTEE, APPOINTMENT, DUTIES — LETTERS OF REPRIMAND, CENSURE OR WARNING.** — 1. The board of pharmacy shall have a common seal, and shall have power to adopt such rules and bylaws not inconsistent with law as may be necessary for the regulation of its proceedings and for the

discharge of the duties imposed pursuant to sections 338.010 to 338.198, and shall have power to employ an attorney to conduct prosecutions or to assist in the conduct of prosecutions pursuant to sections 338.010 to 338.198.

2. The board shall keep a record of its proceedings.

3. The board of pharmacy shall make annually to the governor and, upon written request, to persons licensed pursuant to the provisions of this chapter a written report of its proceedings.

4. The board of pharmacy shall appoint an advisory committee composed of [five] **six** members, one of whom shall be a representative of pharmacy but who shall not be a member of the pharmacy board, three of whom shall be representatives of wholesale drug distributors as defined in section 338.330, [and] one of whom shall be a representative of drug manufacturers, **and one of whom shall be a licensed veterinarian recommended to the board of pharmacy by the board of veterinary medicine.** The committee shall review and make recommendations to the board on the merit of all rules and regulations dealing with pharmacy distributors, wholesale drug distributors [and] , drug manufacturers, **and veterinary legend drugs** which are proposed by the board.

5. A majority of the board shall constitute a quorum for the transaction of business.

6. Notwithstanding any other provisions of law to the contrary, the board may issue letters of reprimand, censure or warning to any holder of a license or registration required pursuant to this chapter for any violations that could result in disciplinary action as defined in section 338.055.

**338.150. INSPECTIONS BY AUTHORIZED REPRESENTATIVES OF BOARD, WHERE.** — Any person authorized by the board of pharmacy is hereby given the right of entry and inspection upon all open premises purporting or appearing to be drug or chemical stores, apothecary shops, pharmacies or places of business for exposing for sale, or the dispensing or selling of drugs, pharmaceuticals, medicines, chemicals or poisons or for the compounding of physicians' **or veterinarians'** prescriptions.

**338.210. PHARMACY DEFINED — PRACTICE OF PHARMACY TO BE CONDUCTED AT PHARMACY LOCATION — RULEMAKING AUTHORITY.** — 1. Pharmacy refers to any location where the practice of pharmacy occurs or such activities are offered or provided by a pharmacist or another acting under the supervision and authority of a pharmacist, including every premises or other place:

(1) Where the practice of pharmacy is offered or conducted;

(2) Where drugs, chemicals, medicines, **any legend drugs under 21 U.S.C. Section 353,** prescriptions, or poisons are compounded, prepared, dispensed or sold or offered for sale at retail;

(3) Where the words "pharmacist", "apothecary", "drugstore", "drugs", and any other symbols, words or phrases of similar meaning or understanding are used in any form to advertise retail products or services;

(4) Where patient records or other information is maintained for the purpose of engaging or offering to engage in the practice of pharmacy or to comply with any relevant laws regulating the acquisition, possession, handling, transfer, sale or destruction of drugs, chemicals, medicines, prescriptions or poisons.

2. All activity or conduct involving the practice of pharmacy as it relates to an identifiable prescription or drug order shall occur at the pharmacy location where such identifiable prescription or drug order is first presented by the patient or the patient's authorized agent for preparation or dispensing, unless otherwise expressly authorized by the board.

3. The requirements set forth in subsection 2 of this section shall not be construed to bar the complete transfer of an identifiable prescription or drug order pursuant to a verbal request by or the written consent of the patient or the patient's authorized agent.

4. The board is hereby authorized to enact rules waiving the requirements of subsection 2 of this section and establishing such terms and conditions as it deems necessary, whereby any activities related to the preparation, dispensing or recording of an identifiable prescription or drug order may be shared between separately licensed facilities.

5. If a violation of this chapter or other relevant law occurs in connection with or adjunct to the preparation or dispensing of a prescription or drug order, any permit holder or pharmacist-in-charge at any facility participating in the preparation, dispensing, or distribution of a prescription or drug order may be deemed liable for such violation.

6. Nothing in this section shall be construed to supersede the provisions of section 197.100.

**338.220. OPERATION OF PHARMACY WITHOUT PERMIT OR LICENSE UNLAWFUL — APPLICATION FOR PERMIT, CLASSIFICATIONS, FEE — DURATION OF PERMIT.** — 1. It shall be unlawful for any person, copartnership, association, corporation or any other business entity to open, establish, operate, or maintain any pharmacy as defined by statute without first obtaining a permit or license to do so from the Missouri board of pharmacy. A permit shall not be required for an individual licensed pharmacist to perform nondispensing activities outside of a pharmacy, as provided by the rules of the board. A permit shall not be required for an individual licensed pharmacist to administer drugs, vaccines, and biologicals by protocol, as permitted by law, outside of a pharmacy. The following classes of pharmacy permits or licenses are hereby established:

- (1) Class A: Community/ambulatory;
- (2) Class B: Hospital outpatient pharmacy;
- (3) Class C: Long-term care;
- (4) Class D: Nonsterile compounding;
- (5) Class E: Radio pharmaceutical;
- (6) Class F: Renal dialysis;
- (7) Class G: Medical gas;
- (8) Class H: Sterile product compounding;
- (9) Class I: Consultant services;
- (10) Class J: Shared service;
- (11) Class K: Internet;
- (12) Class L: Veterinary.

2. Application for such permit or license shall be made upon a form furnished to the applicant; shall contain a statement that it is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the person signing same, subject to the penalties of making a false affidavit or declaration; and shall be accompanied by a permit or license fee. The permit or license issued shall be renewable upon payment of a renewal fee. Separate applications shall be made and separate permits or licenses required for each pharmacy opened, established, operated, or maintained by the same owner.

3. All permits, licenses or renewal fees collected pursuant to the provisions of sections 338.210 to 338.370 shall be deposited in the state treasury to the credit of the Missouri board of pharmacy fund, to be used by the Missouri board of pharmacy in the enforcement of the provisions of sections 338.210 to 338.370, when appropriated for that purpose by the general assembly.

4. Class L: veterinary permit shall not be construed to prohibit or interfere with any legally registered practitioner of veterinary medicine in the compounding, **administering, prescribing,** or dispensing of their own prescriptions, **medicine, drug, or pharmaceutical product to be used for animals.**

5. [Notwithstanding any other law to the contrary] **Except for any legend drugs under 21 U.S.C. Section 353,** the provisions of this section shall not apply to the sale, dispensing, or filling of a pharmaceutical product or drug used for treating animals.

**338.240. EVIDENCE REQUIRED FOR ISSUANCE OF PERMIT — VETERINARY PERMIT PHARMACY, DESIGNATION OF SUPERVISING REGISTERED PHARMACIST, WHEN. — 1.** Upon evidence satisfactory to the said Missouri board of pharmacy:

(1) That the pharmacy for which a permit, or renewal thereof, is sought, will be conducted in full compliance with sections 338.210 to 338.300, with existing laws, and with the rules and regulations as established hereunder by said board;

(2) That the equipment and facilities of such pharmacy are such that it can be operated in a manner not to endanger the public health or safety;

(3) That such pharmacy is equipped with proper pharmaceutical and sanitary appliances and kept in a clean, sanitary and orderly manner;

(4) That the management of said pharmacy is under the supervision of either a registered pharmacist, or an owner or employee of the owner, who has at his **or her** place of business a registered pharmacist employed for the purpose of compounding physician's **or veterinarian's** prescriptions in the event any such prescriptions are compounded or sold;

(5) That said pharmacy is operated in compliance with the rules and regulations legally prescribed with respect thereto by the Missouri board of pharmacy, a permit or renewal thereof shall be issued to such persons as the said board of pharmacy shall deem qualified to conduct such pharmacy.

**2.** In lieu of a registered pharmacist as required by subdivision (4) of subsection 1 of this section, a pharmacy permit holder that only holds a class L veterinary permit and no other pharmacy permit, may designate a supervising registered pharmacist who shall be responsible for reviewing the activities and records of the class L pharmacy permit holder as established by the board by rule. The supervising registered pharmacist shall not be required to be physically present on site during the business operations of a class L pharmacy permit holder identified in subdivision (5) of subsection 1 of this section when noncontrolled legend drugs under 21 U.S.C. Section 353 are being dispensed for use in animals, but shall be specifically present on site when any noncontrolled drugs for use in animals are being compounded.

**338.330. DEFINITIONS. —** As used in sections 338.300 to 338.370, the following terms mean:

(1) "Legend drug", any drug or biological product;

(a) Subject to section 503(b) of the Federal Food, Drug and Cosmetic Act, including finished dosage forms and active ingredients subject to section 503(b); or

(b) Required under federal law to be labeled with one of the following statements prior to being dispensed or delivered:

a. "Caution: Federal law prohibits dispensing without prescription";

b. "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian";

c. "Rx Only"; or

(c) Required by an applicable federal or state law or regulation to be dispensed by prescription only or that is restricted to use by practitioners only; and

(d) The term "drug", "prescription drug", or "legend drug" shall not include:

a. An investigational new drug, as defined by 21 CFR 312.3(b), that is being utilized for the purposes of conducting a clinical investigation of that drug or product that is governed by, and being conducted pursuant to, 21 CFR 312, et. seq.;

b. Any drug product being utilized for the purposes of conducting a clinical investigation that is governed by, and being conducted pursuant to, 21 CFR 312, et. seq.;  
or

c. Any drug product being utilized for the purposes of conducting a clinical investigation that is governed or approved by an institutional review board subject to 21 CFR Part 56 or 45 CFR Part 46;

(2) "Out-of-state wholesale drug distributor", a wholesale drug distributor with no physical facilities located in the state;

[(2)] (3) "Pharmacy distributor", any licensed pharmacy, as defined in section 338.210, engaged in the delivery or distribution of legend drugs to any other licensed pharmacy where such delivery or distribution constitutes at least five percent of the total gross sales of such pharmacy;

[(3)] (4) "Wholesale drug distributor", anyone engaged in the delivery or distribution of legend drugs from any location and who is involved in the actual, constructive or attempted transfer of a drug or drug-related device in this state, other than to the ultimate consumer. This shall include, but not be limited to, drug wholesalers, repackagers and manufacturers which are engaged in the delivery or distribution of drugs in this state, with facilities located in this state or in any other state or jurisdiction. A wholesale drug distributor shall not include any common carrier or individual hired solely to transport legend drugs. Any locations where drugs are delivered on a consignment basis, as defined by the board, shall be exempt from licensure as a drug distributor, and those standards of practice required of a drug distributor but shall be open for inspection by board of pharmacy representatives as provided for in section 338.360.

**SECTION B. EMERGENCY CLAUSE.** — Because immediate action is necessary to ensure the continuance of clinical trials in this state, the repeal and reenactment of section 338.330 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 338.330 of section A of this act shall be in full force and effect upon its passage and approval.

Approved June 10, 2011

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HB 423 [HB 423]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Authorizes Missouri to adopt the provisions of the Health Care Compact to improve health care policy by returning the authority to regulate health care to the state legislatures**

AN ACT to amend chapter 191, RSMo, by adding thereto one new section relating to the health care compact.

**SECTION**

A. Enacting clause.

191.025. Health care compact.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Chapter 191, RSMo, is amended by adding thereto one new section, to be known as section 191.025, to read as follows:

**191.025. HEALTH CARE COMPACT.** — **The Health Care Compact is enacted into law and entered into by the state as a party, and is of full force and effect between the state and**

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any other states joining therein in accordance with the terms of the Compact, which such Compact is as follows:

**SECTION 1. — Definitions.** As used in this Compact, unless the context clearly indicates otherwise:

"Member State" shall refer to a state that is signatory to this Compact and has adopted it under the laws of that state.

"Effective date" shall refer to the date upon which this Compact shall become effective for purposes of the operation of state and federal law in a Member State, which shall be the later of:

(a) the date upon which this Compact shall be adopted under the laws of the Member State, and;

(b) the date upon which this Compact receives the consent of Congress pursuant to Article I, Section 10, of the United States Constitution, after at least two Member States adopt this Compact.

"Health Care" means care, services, supplies, or plans related to the health of an individual and includes but is not limited to:

(a) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care and counseling, service, assessment, or procedure with respect to the physical or mental condition or functional status of an individual or that affects the structure or function of the body; and

(b) sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription; and

(c) an individual or group plan that provides, or pays the cost of, care, services, or supplies related to the health of an individual; except any care, services, supplies, or plans provided by the United States Department of Defense, the United States Department of Veteran Affairs, or provided to Native Americans.

"Commission" shall refer to the Interstate Advisory Health Care Commission.

"Member State" means a state that is signatory to this Compact and has adopted it under the laws of that state.

"Member State Base Funding Level" means a number equal to the total federal spending on Health Care in the Member State during federal fiscal year 2010 as determined. On or before the effective date, each Member State shall determine the Member State Base Funding Level for its state, and that number shall be binding upon that Member State. (The preliminary estimate of Member State Base Funding Level for the State of Missouri is \$18,669,000,000.)

"Member State Current Year Funding Level" means the Member State Base Funding Level multiplied by the Member State Current Year Population Adjustment Factor multiplied by the Current Year Inflation Adjustment Factor.

"Member State Current Year Population Adjustment Factor" means the average population of the Member State in the current year less the average population of the Member State in federal fiscal year 2010, divided by the average population of the Member State in federal fiscal year 2010, plus 1. Average population in a Member State shall be determined by the United States Census Bureau.

"Current Year Inflation Adjustment Factor" means the Total Gross Domestic Product Deflator in the current year divided by the Total Gross Domestic Product Deflator in federal fiscal year 2010. Total Gross Domestic Product Deflator shall be determined by the Bureau of Economic Analysis of the United States Department of Commerce.

**SECTION 2. — Pledge.** The Member States shall take joint and separate action to secure the consent of the United States Congress to this Compact in order to return the authority to regulate health care to the Member States, consistent with the goals and

principles articulated in this Compact. The Member States shall improve health care policy within their respective jurisdictions and according to the judgment and discretion of each Member State.

**SECTION 3. — Legislative Power.** The legislatures of the Member States have the primary responsibility to regulate health care in their respective states.

**SECTION 4. — State Control.** Each Member State, within its state, may suspend by legislation the operation of all federal laws, rules, regulations, and orders regarding Health Care that are inconsistent with the laws and regulations adopted by the Member State pursuant to this Compact. Federal laws, rules, regulations, and orders regarding health care will remain in effect unless a Member State expressly suspends them pursuant to its authority under this Compact. For any federal law, rule, regulation, or order that remains in effect in a Member State after the effective date, that Member State shall be responsible for the associated funding obligations in its state.

**SECTION 5. — Funding.**

(a) Each federal fiscal year, each Member State shall have the right to federal monies up to an amount equal to its Member State Current Year Funding Level for that federal fiscal year, funded by Congress as mandatory spending and not subject to annual appropriation, to support the exercise of Member State authority under this Compact. This funding shall not be conditional on any action of or regulation, policy, law, or rule being adopted by the Member State.

(b) By the start of each federal fiscal year, Congress shall establish an initial Member State Current Year Funding Level for each Member State, based upon reasonable estimates. The final Member State Current Year Funding Level shall be calculated, and funding shall be reconciled by the United States Congress, based upon information provided by each Member State and audited by the United States Government Accountability Office.

**SECTION 6. — Interstate Advisory Health Care Commission.**

(a) The Commission may study the issues of health care regulation of particular concern to the Member States. The Commission may make nonbinding recommendations to the Member States. The legislatures of the Member States may consider these recommendations in determining the appropriate health care policy in their respective states.

(b) The Commission shall collect information and data to assist the Member States in their regulation of health care, including assessing the performance of various state health care programs and compiling information on the prices health care. The Commission shall then make this information and data available to the legislatures of the Member States. Notwithstanding any other provision in this Compact, no Member State shall disclose to the Commission the health information of any individual, nor shall the Commission disclose the health information of any individual.

(c) The Commission consists of members appointed by each Member State through a process to be determined by the laws of each Member State. A Member State may not appoint more than two members to the Commission, and at any time a Member State may withdraw membership from the Commission at any time. Each Commission member is entitled to one vote. The Commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the commission's total membership.

(d) The Commission may elect from among its membership a chairperson. The Commission may adopt and publish bylaws and policies that are not inconsistent with this Compact. The Commission shall meet at least once a year, and may meet more frequently, as its bylaws direct.



(e) The Commission shall be funded by the Member States as agreed to by the Member States. The Commission shall have the responsibilities and duties as may be conferred upon it by subsequent action of the respective legislatures of the Member States in accordance with the terms of this Compact.

(f) The Commission shall not take any action within a Member State that contravenes any state law of that Member State.

**SECTION 7. — Congressional Consent.** This Compact shall be effective on its adoption by at least two Member States and consent of the United States Congress. This Compact shall be effective unless the United States Congress, in consenting to this Compact, alters the fundamental purposes of this Compact, which are:

(a) To secure the right of the Member States to regulate Health Care in their respective states pursuant to this Compact and to suspend the operation of any conflicting federal laws, rules, regulations, and orders within their states; and

(b) To secure federal funding for Member States that choose to invoke their authority under this Compact, as prescribed by Section 5 above.

**SECTION 8. — Amendments.** The Member States, by unanimous agreement, may amend this Compact from time to time without the prior consent or approval of Congress and any amendment shall be effective unless, within one year, the Congress disapproves that amendment. Any state may join this Compact after the date on which Congress consents to the Compact by adoption into law under its state Constitution.

**SECTION 9. — Withdrawal; Dissolution.** Any Member State may withdraw from this Compact by adopting a law to that effect, but no such withdrawal shall take effect until six months after the Governor of the withdrawing Member State has given notice of the withdrawal to the other Member States. This Compact shall be dissolved upon the withdrawal of all but one of the Member States.

No action taken by Governor, bill becomes law pursuant to Article III, Section 31, of the Missouri Constitution.

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## HB 431 [SS SCS HCS HB 431]

**EXPLANATION —** Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Changes the laws regarding foster care and adoption and establishes the Missouri State Foster Care and Adoption Board and a task force on foster care recruitment, licensing, and retention**

AN ACT to repeal sections 210.112, 210.498, and 210.565, RSMo, and to enact in lieu thereof six new sections relating to foster care and adoption promotion.

### SECTION

- A. Enacting clause.
  - 143.1015. Foster care and adoptive parents recruitment and retention fund, refund donation to — director's duties — sunset provision.
  - 210.112. Children's services providers and agencies, contracting with, requirements — reports to general assembly — task force created — rulemaking authority.
  - 210.498. Access to records on the suspension or revocation of a foster home license — procedure for release of information.
  - 210.565. Relatives of child shall be given foster home placement, when — relative, defined — order of preference — specific findings required, when — sibling placement — age of relative not a factor, when — federal requirements to be followed for placement of Native American children — waiver of certain standards, when — GAL to ascertain child's wishes, when.
-

- 210.617. Missouri state foster care and adoption board created, duties, members, expenses, meetings — written annual report, when.
- 453.600. Fund created, use of moneys — board created, purpose, members, duties — sunset provision.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 210.112, 210.498, and 210.565, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 143.1015, 210.112, 210.498, 210.565, 210.617, and 453.600, to read as follows:

**143.1015. FOSTER CARE AND ADOPTIVE PARENTS RECRUITMENT AND RETENTION FUND, REFUND DONATION TO — DIRECTOR'S DUTIES — SUNSET PROVISION.** — **1.** In each taxable year beginning on or after January 1, 2011, each individual or corporation entitled to a tax refund in an amount sufficient to make a designation under this section may designate that one dollar or any amount in excess of one dollar on a single return, and two dollars or any amount in excess of two dollars on a combined return, of the refund due be credited to the foster care and adoptive parents recruitment and retention fund as established under section 453.600, hereinafter referred to as the fund. If any individual or corporation that is not entitled to a tax refund in an amount sufficient to make a designation under this section wishes to make a contribution to the fund, such individual or corporation may, by separate check, draft, or other negotiable instrument, send in with the payment of taxes, or may send in separately, that amount, clearly designated for the foster care and adoptive parents recruitment and retention fund, the individual or corporation wishes to contribute. The department of revenue shall deposit such amount to the fund as provided in subsections 2 and 3 of this section. All moneys credited to the fund shall be considered nonstate funds under the provisions of article IV, section 15 of the Missouri Constitution.

**2.** The director of revenue shall deposit at least monthly all contributions designated by individuals under this section to the state treasurer for deposit to the fund.

**3.** The director of revenue shall deposit at least monthly all contributions designated by corporations under this section, less an amount sufficient to cover the costs of collection and handling by the department of revenue, to the state treasury for deposit to the fund.

**4.** A contribution designated under this section shall only be deposited in the fund after all other claims against the refund from which such contribution is to be made have been satisfied.

**5.** Moneys deposited in the fund shall be distributed by the department of social services in accordance with the provisions of this section and section 453.600.

**6.** Under section 23.253 of the Missouri sunset act:

**(1)** The provisions of the new program authorized under this section shall automatically sunset six years after August 28, 2011, unless reauthorized by an act of the general assembly; and

**(2)** If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

**(3)** This section shall terminate on December thirty-first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

**210.112. CHILDREN'S SERVICES PROVIDERS AND AGENCIES, CONTRACTING WITH, REQUIREMENTS — REPORTS TO GENERAL ASSEMBLY — TASK FORCE CREATED — RULEMAKING AUTHORITY.** — **1.** It is the policy of this state and its agencies to implement a foster care and child protection and welfare system focused on providing the highest quality of

services and outcomes for children and their families. The department of social services shall implement such system subject to the following principles:

- (1) The safety and welfare of children is paramount;
- (2) Providers of direct services to children and their families will be evaluated in a uniform and consistent basis;
- (3) Services to children and their families shall be provided in a timely manner to maximize the opportunity for successful outcomes; and
- (4) Any provider of direct services to children and families shall have the appropriate and relevant training, education, and expertise to provide the highest quality of services possible which shall be consistent with the federal standards, but not less than the standards and policies used by the children's division as of January 1, 2004.

2. On or before July 1, 2005, and subject to appropriations, the children's division and any other state agency deemed necessary by the division shall, in consultation with the community and providers of services, enter into and implement contracts with qualified children's services providers and agencies to provide a comprehensive and deliberate system of service delivery for children and their families. Contracts shall be awarded through a competitive process and provided by children's services providers and agencies currently contracting with the state to provide such services and by public and private not-for-profit or limited liability corporations owned exclusively by not-for-profit corporations children's services providers and agencies which have:

- (1) A proven record of providing child welfare services within the state of Missouri which shall be consistent with the federal standards, but not less than the standards and policies used by the children's division as of January 1, 2004; and
- (2) The ability to provide a range of child welfare services, which may include case management services, family-centered services, foster and adoptive parent recruitment and retention, residential care, in-home services, foster care services, adoption services, relative care case management, planned permanent living services, and family reunification services.

No contracts shall be issued for services related to the child abuse and neglect hotline, investigations of alleged abuse and neglect, and initial family assessments. Any contracts entered into by the division shall be in accordance with all federal laws and regulations, and shall not result in the loss of federal funding. Such children's services providers and agencies under contract with the division shall be subject to all federal, state, and local laws and regulations relating to the provision of such services, and shall be subject to oversight and inspection by appropriate state agencies to assure compliance with standards which shall be consistent with the federal standards, but not less than the standards and policies used by the children's division as of January 1, 2004.

3. In entering into and implementing contracts under subsection 2 of this section, the division shall consider and direct their efforts towards geographic areas of the state, including Greene County, where eligible direct children's services providers and agencies are currently available and capable of providing a broad range of services, including case management services, family-centered services, foster and adoptive parent recruitment and retention, residential care, family preservation services, foster care services, adoption services, relative care case management, other planned living arrangements, and family reunification services consistent with federal guidelines. Nothing in this subsection shall prohibit the division from contracting on an as-needed basis for any individual child welfare service listed above.

4. The contracts entered into under this section shall assure that:

- (1) Child welfare services shall be delivered to a child and the child's family by professionals who have substantial and relevant training, education, or competencies otherwise demonstrated in the area of children and family services;
- (2) Children's services providers and agencies shall be evaluated by the division based on objective, consistent, and performance-based criteria;

(3) Any case management services provided shall be subject to a case management plan established under subsection 5 of this section which is consistent with all relevant federal guidelines. The case management plan shall focus on attaining permanency in children's living conditions to the greatest extent possible and shall include concurrent planning and independent living where appropriate in accordance with the best interests of each child served and considering relevant factors applicable to each individual case as provided by law, including:

(a) The interaction and interrelationship of a child with the child's foster parents, biological or adoptive parents, siblings, and any other person who may significantly affect the child's best interests;

(b) A child's adjustment to his or her foster home, school, and community;

(c) The mental and physical health of all individuals involved, including any history of abuse of or by any individuals involved;

(d) The needs of the child for a continuing relationship with the child's biological or adoptive parents and the ability and willingness of the child's biological or adoptive parents to actively perform their functions as parents with regard to the needs of the child; and

(e) For any child under ten years old, treatment services may be available as defined in section 210.110. Assessments, as defined in section 210.110, may occur to determine which treatment services best meet the child's psychological and social needs. When the assessment indicates that a child's needs can be best resolved by intensive twenty-four-hour treatment services, the division will locate, contract, and place the child with the appropriate organizations. This placement will be viewed as the least restrictive for the child based on the assessment;

(4) The delivery system shall have sufficient flexibility to take into account children and families on a case-by-case basis;

(5) The delivery system shall provide a mechanism for the assessment of strategies to work with children and families immediately upon entry into the system to maximize permanency and successful outcome in the shortest time possible and shall include concurrent planning. Outcome measures for private and public agencies shall be equal for each program; and

(6) Payment to the children's services providers and agencies shall be made based on the reasonable costs of services, including responsibilities necessary to execute the contract. Contracts shall provide incentives in addition to the costs of services provided in recognition of accomplishment of the case goals and the corresponding cost savings to the state. The division shall promulgate rules to implement the provisions of this subdivision.

5. Contracts entered into under this section shall require that a case management plan consistent with all relevant federal guidelines shall be developed for each child at the earliest time after the initial investigation, but in no event longer than fourteen days after the initial investigation or referral to the contractor by the division. Such case management plan shall be presented to the court and be the foundation of service delivery to the child and family. The case management plan shall, at a minimum, include:

(1) An outcome target based on the child and family situation achieving permanency or independent living, where appropriate;

(2) Services authorized and necessary to facilitate the outcome target;

(3) Time frames in which services will be delivered; and

(4) Necessary evaluations and reporting.

In addition to any visits and assessments required under case management, services to be provided by a public or private children's services provider under the specific case management plan may include family-centered services, foster and adoptive parent recruitment and retention, residential care, in-home services, foster care services, adoption services, relative care case services, planned permanent living services, and family reunification services. In all cases, an appropriate level of services shall be provided to the child and family after permanency is achieved to assure a continued successful outcome.

6. The division shall convene a task force to review the recruitment, licensing and retention of foster and adoptive parents statewide. In addition to representatives of the division and department, the task force shall include representatives of the private sector and faith-based community which provide recruitment and licensure services. The purpose of the task force will be to study the extent to which changes in the system of recruiting, licensing, and retaining foster and adoptive parents would enhance the effectiveness of the system statewide. The task force shall develop a report of its findings with recommendations by December 1, 2011, and provide copies of the report to the general assembly and to the governor.

7. On or before July 15, 2006, and each July fifteenth thereafter that the project is in operation, the division shall submit a report to the general assembly which shall include:

(1) Details about the specifics of the contracts, including the number of children and families served, the cost to the state for contracting such services, the current status of the children and families served, an assessment of the quality of services provided and outcomes achieved, and an overall evaluation of the project; and

(2) Any recommendations regarding the continuation or possible statewide implementation of such project; and

(3) Any information or recommendations directly related to the provision of direct services for children and their families that any of the contracting children's services providers and agencies request to have included in the report.

[7.] 8. The division shall accept as prima facie evidence of completion of the requirements for licensure under sections 210.481 to 210.511 proof that an agency is accredited by any of the following nationally recognized bodies: the Council on Accreditation of Services, Children and Families, Inc.; the Joint Commission on Accreditation of Hospitals; or the Commission on Accreditation of Rehabilitation Facilities. The division shall not require any further evidence of qualification for licensure if such proof of voluntary accreditation is submitted.

[8.] 9. By February 1, 2005, the children's division shall promulgate and have in effect rules to implement the provisions of this section and, pursuant to this section, shall define implementation plans and dates. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

**210.498. ACCESS TO RECORDS ON THE SUSPENSION OR REVOCATION OF A FOSTER HOME LICENSE — PROCEDURE FOR RELEASE OF INFORMATION.** — Any parent or legal guardian may have access to investigation records kept by the division regarding a decision for the denial of or the suspension or revocation of a license to a specific person to operate or maintain a foster home if such specific person does or may provide services or care to a child of the person requesting the information. The request for the release of such information shall be made to the division director or the director's designee, in writing, by the parent or legal guardian of the child and shall be accompanied with a signed and notarized release form from the person who does or may provide care or services to the child. The notarized release form shall include the full name, date of birth and Social Security number of the person who does or may provide care or services to a child. The response shall include **only** information pertaining to the nature and disposition of any denial, suspension or revocation of a license to operate a foster home. This response shall not include any identifying information regarding any person other than the person to whom a foster home license was denied, suspended or revoked. The response shall be given within ten working days of the time it was received by the division.

**210.565. RELATIVES OF CHILD SHALL BE GIVEN FOSTER HOME PLACEMENT, WHEN — RELATIVE, DEFINED — ORDER OF PREFERENCE — SPECIFIC FINDINGS REQUIRED, WHEN — SIBLING PLACEMENT — AGE OF RELATIVE NOT A FACTOR, WHEN — FEDERAL REQUIREMENTS TO BE FOLLOWED FOR PLACEMENT OF NATIVE AMERICAN CHILDREN — WAIVER OF CERTAIN STANDARDS, WHEN — GAL TO ASCERTAIN CHILD'S WISHES, WHEN. —**

1. Whenever a child is placed in a foster home and the court has determined pursuant to subsection 3 of this section that foster home placement with relatives is not contrary to the best interest of the child, the children's division shall give foster home placement to relatives of the child. Notwithstanding any rule of the division to the contrary, the children's division shall make diligent efforts to locate the grandparents of the child and determine whether they wish to be considered for placement of the child. Grandparents who request consideration shall be given preference and first consideration for foster home placement of the child. If more than one grandparent requests consideration, the family support team shall make recommendations to the juvenile or family court about which grandparent should be considered for placement.

2. As used in this section, the term "relative" means a grandparent or any other person related to another by blood or affinity within the third degree. The status of a grandparent shall not be affected by the death or the dissolution of the marriage of a son or daughter.

3. **The following shall be the order or preference for placement of a child under this section:**

(1) **Grandparents and relatives;**

(2) **A trusted adult that has a preexisting relationship with the child, such as a godparent, teacher, neighbor, or fellow parishioner who voluntarily agrees to care for the child; and**

(3) **Any foster parent who is currently licensed and capable of accepting placement of the child.**

4. The preference for placement and first consideration for grandparents or preference for placement with other relatives created by this section shall only apply where the court finds that placement with such grandparents or other relatives is not contrary to the best interest of the child considering all circumstances. If the court finds that it is contrary to the best interest of a child to be placed with grandparents or other relatives, the court shall make specific findings on the record detailing the reasons why the best interests of the child necessitate placement of the child with persons other than grandparents or other relatives.

5. **Recognizing the critical nature of sibling bonds for children, the children's division shall make reasonable efforts to place siblings in the same foster care, kinship, guardianship, or adoptive placement, unless doing so would be contrary to the safety or well-being of any of the siblings. If siblings are not placed together, the children's division shall make reasonable efforts to provide frequent visitation or other ongoing interaction between the siblings, unless this interaction would be contrary to a sibling's safety or well-being.**

[4.] 6. The age of the child's grandparent or other relative shall not be the only factor that the children's division takes into consideration when it makes placement decisions and recommendations to the court about placing the child with such grandparent or other relative.

[5.] 7. For any Native American child placed in protective custody, the children's division shall comply with the placement requirements set forth in 25 U.S.C. Section 1915.

[6.] 8. A grandparent or other relative may, on a case-by-case basis, have standards for licensure not related to safety waived for specific children in care that would otherwise impede licensing of the grandparent's or relative's home. **In addition, any person receiving a preference may be licensed in an expedited manner if a child is placed under such person's care.**

[7.] 9. The guardian ad litem shall ascertain the child's wishes and feelings about his or her placement by conducting an interview or interviews with the child, if appropriate based on the child's age and maturity level, which shall be considered as a factor in placement decisions and recommendations, but shall not supersede the preference for relative placement created by this section or be contrary to the child's best interests.

**210.617. MISSOURI STATE FOSTER CARE AND ADOPTION BOARD CREATED, DUTIES, MEMBERS, EXPENSES, MEETINGS — WRITTEN ANNUAL REPORT, WHEN. — 1.** There is hereby created within the department of social services the "Missouri State Foster Care and Adoption Board", which shall provide consultation and assistance to the department and shall draft and provide an independent review of the children's division policies and procedures related to the provision of foster care and adoption in Missouri. Additionally, the board shall determine the nature and content of in-service training which shall be provided to foster and adoptive parents in order to improve the provision of foster care and adoption services to children statewide consistent with section 210.566. The board shall be comprised of foster and adoptive parents as follows:

(1) Two members from each of the seven children's division areas within the department of social services delineated as follows:

- (a) The northwest region;
- (b) The northeast region;
- (c) The southeast region;
- (d) The southwest region;
- (e) The Kansas City region;
- (f) The St. Louis area region;
- (g) The St. Louis City region;

(2) Area members shall be appointed by the governor, with the advice and consent of the senate, based upon recommendations by regional foster care and adoption boards, or other similar entities.

2. Statewide foster care and adoption association representatives shall be voting members of the board as approved by the board.

3. All members of the board shall serve for a term of at least two years. Members may be reappointed to the board by their entities for consecutive terms. All vacancies on the board shall be filled for the balance of the unexpired term in the same manner in which the board membership which is vacant was originally filled.

4. Each member of the board may be reimbursed for actual and necessary expenses incurred by the member in performance of his or her official duties. All reimbursements made under this subsection shall be made from funds within the department of social services' children's division budget.

5. All business transactions of the board shall be conducted in public meetings in accordance with sections 610.010 to 610.030.

6. The board shall elect officers from the membership consisting of a chairperson, co-chairperson, and secretary. Officers shall serve for a term of two years. The board may elect such other officers and establish such committees as it deems appropriate.

7. The board shall establish such procedures necessary to:

(1) Review children's division proposed policy and provide written opinions and recommendations for change to the children's division within thirty days of receipt of the proposed policy;

(2) Provide draft policy suggestions, at the request of the children's division or in response to issues by the board, to the children's division for improvements in foster care or adoption practice; and

(3) Fulfill its statutory requirement in accordance with section 210.566 to determine the content of in-service training to be provided by the children's division to foster and adoptive parents.

8. The board shall provide to the director of the department of social services, the governor, the office of the child advocate, and upon request, members of the general assembly, a written report of annual activities conducted and made.

9. The board shall exercise its powers and duties independently of the children's division within the department of social services in order to ensure partnership and accountability in the provision of services to the state's children affected by abuse and neglect. Budgetary, procurement, and accounting functions shall continue to be performed by the children's division.

**453.600. FUND CREATED, USE OF MONEYS — BOARD CREATED, PURPOSE, MEMBERS, DUTIES — SUNSET PROVISION. —** 1. There is hereby created in the state treasury the "Foster Care and Adoptive Parents Recruitment and Retention Fund" which shall consist of all gifts, donations, transfers, and moneys appropriated by the general assembly, and bequests to the fund. The fund shall maintain no more than the total of the last two years of funding or a minimum of three hundred thousand dollars, whichever is greater. The fund shall be administered by the foster care and adoptive parents recruitment and retention fund board created in subsection 3 of this section.

2. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

3. There is hereby created the "Foster Care and Adoptive Parents Recruitment and Retention Fund Board" within the department of social services. The board shall consist of the following members or their designees:

- (1) The director of the department of social services;
- (2) The director of the department of mental health;
- (3) The director of the department of health and senior services;
- (4) The following six members to be appointed by the director of the department of social services:
  - (a) Two representatives of a recognized foster parent association;
  - (b) Two representatives of a licensed child-placing agency; and
  - (c) Two representatives of a licensed residential treatment center.

Members appointed under subdivision (4) of this subsection shall serve three-year terms, subject to reappointment. Of the members initially appointed, three shall be appointed for a two-year term and three shall be appointed three-year terms. All members of the board shall serve without compensation but shall, subject to appropriation, be reimbursed for reasonable and necessary expenses actually incurred in the performance of their official duties as members of the board. The department of social services shall, with existing resources, provide administrative support and current staff as necessary for the effective operation of the board.

4. Upon appropriation, moneys in the fund shall be used to grant awards to licensed community-based foster care and adoption recruitment programs. The board shall establish guidelines for disbursement of the fund to certain programs. Such programs shall include, but not be limited to, recruitment and retention of foster and adoptive families for children who:



- (1) Have been in out-of-home placement for fifteen months or more;
- (2) Are more than twelve years of age; or
- (3) Are in sibling groups.

Moneys in the fund shall not be subject to appropriation for purposes other than those of evidence-based foster care and adoption programs as designated by the board established under this section.

**5. Under section 23.253 of the Missouri sunset act:**

- (1) The provisions of the new fund authorized under this section shall automatically sunset six years after August 28, 2011, unless reauthorized by an act of the general assembly; and
- (2) If such fund is reauthorized, the fund authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and
- (3) This section shall terminate on December thirty-first of the calendar year immediately following the calendar year in which the fund authorized under this section is sunset.

Approved July 12, 2011

HB 458 [CCS SS HB 458]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Changes the laws regarding agriculture**

AN ACT to repeal sections 144.030, 263.190, 263.200, 263.205, 263.220, 263.230, 263.232, 263.240, 263.241, 263.450, 268.121, 276.401, 276.416, 276.421, 276.436, 276.441, 276.446, and 411.280, RSMo, and to enact in lieu thereof thirteen new sections relating to agriculture, with penalty provisions.

**SECTION**

- A. Enacting clause.
- 144.030. Exemptions from state and local sales and use taxes.
- 262.815. Citation of law, purpose — trust created, objectives — advisory board created, members, duties, terms — fund created — rulemaking authority.
- 263.190. Owners to control noxious weeds — notice procedure — penalty — sale of noxious weeds prohibited.
- 263.200. County commission duties to control noxious weeds, official immunity, landowner duty of care — special tax for cost, collection — provisions applicable to certain political subdivisions.
- 263.220. Duty of prosecuting attorney.
- 263.240. Penalty for violation.
- 268.121. Recorded brand list a public record, furnished to general public at cost.
- 276.401. Title, and scope of the law — definitions.
- 276.421. Financial statement to accompany application, how prepared — false statement, penalty — minimum net worth and assets required.
- 276.436. Amount of bond — director to establish by rule — formula — minimum and maximum — additional bond because of low net worth or other circumstances — failure to maintain, effect.
- 276.441. Dealer may request use of minimum bond, procedure.
- 411.280. Warehouseman's net worth, requirements — deficiency, how corrected.
- 442.014. Private landowner protection act — definitions — conservation easement permitted, when, validity — applicability.
- 263.205. Multiflora rose a noxious weed, exceptions — counties may establish programs and funds to control noxious weeds.
- 263.230. Control of spread of bindweed, by whom.
- 263.232. Eradication and control of the spread of teasel, kudzu vine, and spotted knapweed.
- 263.241. Plant, purple loosestrife (*Lythrum salicaria*) declared a noxious weed — distribution for control experiments only, permit required, violations, penalty.

- 263.450. Noxious weed, defined — designation of noxious weed by director of department of agriculture.  
276.416. Application to list dollar amounts of grain purchased or to be purchased.  
276.446. Small dealers may have lower minimum bond.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 144.030, 263.190, 263.200, 263.205, 263.220, 263.230, 263.232, 263.240, 263.241, 263.450, 268.121, 276.401, 276.416, 276.421, 276.436, 276.441, 276.446, and 411.280, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 144.030, 262.815, 263.190, 263.200, 263.220, 263.240, 268.121, 276.401, 276.421, 276.436, 276.441, 411.280, and 442.014, to read as follows:

**144.030. EXEMPTIONS FROM STATE AND LOCAL SALES AND USE TAXES.** — 1. There is hereby specifically exempted from the provisions of sections 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525 such retail sales as may be made in commerce between this state and any other state of the United States, or between this state and any foreign country, and any retail sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or laws of the United States of America, and such retail sales of tangible personal property which the general assembly of the state of Missouri is prohibited from taxing or further taxing by the constitution of this state.

2. There are also specifically exempted from the provisions of the local sales tax law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.761 and from the computation of the tax levied, assessed or payable pursuant to the local sales tax law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.745:

(1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of such excise tax is refunded pursuant to section 142.824; or upon the sale at retail of fuel to be consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be converted into foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone or fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested will be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at retail; economic poisons registered pursuant to the provisions of the Missouri pesticide registration law (sections 281.220 to 281.310) which are to be used in connection with the growth or production of crops, fruit trees or orchards applied before, during, or after planting, the crop of which when harvested will be sold at retail or will be converted into foodstuffs which are to be sold ultimately in processed form at retail;

(2) Materials, manufactured goods, machinery and parts which when used in manufacturing, processing, compounding, mining, producing or fabricating become a component part or ingredient of the new personal property resulting from such manufacturing, processing, compounding, mining, producing or fabricating and which new personal property is intended to be sold ultimately for final use or consumption; and materials, including without limitation, gases and manufactured goods, including without limitation slagging materials and firebrick, which are ultimately consumed in the manufacturing process by blending, reacting or interacting with or by becoming, in whole or in part, component parts or ingredients of steel products intended to be sold ultimately for final use or consumption;

(3) Materials, replacement parts and equipment purchased for use directly upon, and for the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling stock or aircraft engaged as common carriers of persons or property;

(4) Replacement machinery, equipment, and parts and the materials and supplies solely required for the installation or construction of such replacement machinery, equipment, and parts, used directly in manufacturing, mining, fabricating or producing a product which is intended to be

sold ultimately for final use or consumption; and machinery and equipment, and the materials and supplies required solely for the operation, installation or construction of such machinery and equipment, purchased and used to establish new, or to replace or expand existing, material recovery processing plants in this state. For the purposes of this subdivision, a "material recovery processing plant" means a facility that has as its primary purpose the recovery of materials into a useable product or a different form which is used in producing a new product and shall include a facility or equipment which are used exclusively for the collection of recovered materials for delivery to a material recovery processing plant but shall not include motor vehicles used on highways. For purposes of this section, the terms motor vehicle and highway shall have the same meaning pursuant to section 301.010. Material recovery is not the reuse of materials within a manufacturing process or the use of a product previously recovered. The material recovery processing plant shall qualify under the provisions of this section regardless of ownership of the material being recovered;

(5) Machinery and equipment, and parts and the materials and supplies solely required for the installation or construction of such machinery and equipment, purchased and used to establish new or to expand existing manufacturing, mining or fabricating plants in the state if such machinery and equipment is used directly in manufacturing, mining or fabricating a product which is intended to be sold ultimately for final use or consumption;

(6) Tangible personal property which is used exclusively in the manufacturing, processing, modification or assembling of products sold to the United States government or to any agency of the United States government;

(7) Animals or poultry used for breeding or feeding purposes;

(8) Newsprint, ink, computers, photosensitive paper and film, toner, printing plates and other machinery, equipment, replacement parts and supplies used in producing newspapers published for dissemination of news to the general public;

(9) The rentals of films, records or any type of sound or picture transcriptions for public commercial display;

(10) Pumping machinery and equipment used to propel products delivered by pipelines engaged as common carriers;

(11) Railroad rolling stock for use in transporting persons or property in interstate commerce and motor vehicles licensed for a gross weight of twenty-four thousand pounds or more or trailers used by common carriers, as defined in section 390.020, in the transportation of persons or property;

(12) Electrical energy used in the actual primary manufacture, processing, compounding, mining or producing of a product, or electrical energy used in the actual secondary processing or fabricating of the product, or a material recovery processing plant as defined in subdivision (4) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical energy so used exceeds ten percent of the total cost of production, either primary or secondary, exclusive of the cost of electrical energy so used or if the raw materials used in such processing contain at least twenty-five percent recovered materials as defined in section 260.200. There shall be a rebuttable presumption that the raw materials used in the primary manufacture of automobiles contain at least twenty-five percent recovered materials. For purposes of this subdivision, "processing" means any mode of treatment, act or series of acts performed upon materials to transform and reduce them to a different state or thing, including treatment necessary to maintain or preserve such processing by the producer at the production facility;

(13) Anodes which are used or consumed in manufacturing, processing, compounding, mining, producing or fabricating and which have a useful life of less than one year;

(14) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring air pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices;

(15) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring water pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices;

(16) Tangible personal property purchased by a rural water district;

(17) All amounts paid or charged for admission or participation or other fees paid by or other charges to individuals in or for any place of amusement, entertainment or recreation, games or athletic events, including museums, fairs, zoos and planetariums, owned or operated by a municipality or other political subdivision where all the proceeds derived therefrom benefit the municipality or other political subdivision and do not inure to any private person, firm, or corporation;

(18) All sales of insulin and prosthetic or orthopedic devices as defined on January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of 1965, including the items specified in Section 1862(a)(12) of that act, and also specifically including hearing aids and hearing aid supplies and all sales of drugs which may be legally dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to administer those items, including samples and materials used to manufacture samples which may be dispensed by a practitioner authorized to dispense such samples and all sales of medical oxygen, home respiratory equipment and accessories, hospital beds and accessories and ambulatory aids, all sales of manual and powered wheelchairs, stairway lifts, Braille writers, electronic Braille equipment and, if purchased by or on behalf of a person with one or more physical or mental disabilities to enable them to function more independently, all sales of scooters, reading machines, electronic print enlargers and magnifiers, electronic alternative and augmentative communication devices, and items used solely to modify motor vehicles to permit the use of such motor vehicles by individuals with disabilities or sales of over-the-counter or nonprescription drugs to individuals with disabilities;

(19) All sales made by or to religious and charitable organizations and institutions in their religious, charitable or educational functions and activities and all sales made by or to all elementary and secondary schools operated at public expense in their educational functions and activities;

(20) All sales of aircraft to common carriers for storage or for use in interstate commerce and all sales made by or to not-for-profit civic, social, service or fraternal organizations, including fraternal organizations which have been declared tax-exempt organizations pursuant to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, in their civic or charitable functions and activities and all sales made to eleemosynary and penal institutions and industries of the state, and all sales made to any private not-for-profit institution of higher education not otherwise excluded pursuant to subdivision (19) of this subsection or any institution of higher education supported by public funds, and all sales made to a state relief agency in the exercise of relief functions and activities;

(21) All ticket sales made by benevolent, scientific and educational associations which are formed to foster, encourage, and promote progress and improvement in the science of agriculture and in the raising and breeding of animals, and by nonprofit summer theater organizations if such organizations are exempt from federal tax pursuant to the provisions of the Internal Revenue Code and all admission charges and entry fees to the Missouri state fair or any fair conducted by a county agricultural and mechanical society organized and operated pursuant to sections 262.290 to 262.530;

(22) All sales made to any private not-for-profit elementary or secondary school, all sales of feed additives, medications or vaccines administered to livestock or poultry in the production of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber, all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying agricultural crops,

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natural gas used in the primary manufacture or processing of fuel ethanol as defined in section 142.028, natural gas, propane, and electricity used by an eligible new generation cooperative or an eligible new generation processing entity as defined in section 348.432, and all sales of farm machinery and equipment, other than airplanes, motor vehicles and trailers, **and any freight charges on any exempt item.** As used in this subdivision, the term "feed additives" means tangible personal property which, when mixed with feed for livestock or poultry, is to be used in the feeding of livestock or poultry. As used in this subdivision, the term "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and other assorted pesticide carriers used to improve or enhance the effect of a pesticide and the foam used to mark the application of pesticides and herbicides for the production of crops, livestock or poultry. As used in this subdivision, the term "farm machinery and equipment" means new or used farm tractors and such other new or used farm machinery and equipment and repair or replacement parts thereon **and any accessories for and upgrades to such farm machinery and equipment, rotary mowers used exclusively for agricultural purposes,** and supplies and lubricants used exclusively, solely, and directly for producing crops, raising and feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk for ultimate sale at retail, including field drain tile, and one-half of each purchaser's purchase of diesel fuel therefor which is:

- (a) Used exclusively for agricultural purposes;
- (b) Used on land owned or leased for the purpose of producing farm products; and
- (c) Used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold ultimately in processed form at retail;

(23) Except as otherwise provided in section 144.032, all sales of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil for domestic use and in any city not within a county, all sales of metered or unmetered water service for domestic use:

(a) "Domestic use" means that portion of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil, and in any city not within a county, metered or unmetered water service, which an individual occupant of a residential premises uses for nonbusiness, noncommercial or nonindustrial purposes. Utility service through a single or master meter for residential apartments or condominiums, including service for common areas and facilities and vacant units, shall be deemed to be for domestic use. Each seller shall establish and maintain a system whereby individual purchases are determined as exempt or nonexempt;

(b) Regulated utility sellers shall determine whether individual purchases are exempt or nonexempt based upon the seller's utility service rate classifications as contained in tariffs on file with and approved by the Missouri public service commission. Sales and purchases made pursuant to the rate classification "residential" and sales to and purchases made by or on behalf of the occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, shall be considered as sales made for domestic use and such sales shall be exempt from sales tax. Sellers shall charge sales tax upon the entire amount of purchases classified as nondomestic use. The seller's utility service rate classification and the provision of service thereunder shall be conclusive as to whether or not the utility must charge sales tax;

(c) Each person making domestic use purchases of services or property and who uses any portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day of the fourth month following the year of purchase, and without assessment, notice or demand, file a return and pay sales tax on that portion of nondomestic purchases. Each person making nondomestic purchases of services or property and who uses any portion of the services or property so purchased for domestic use, and each person making domestic purchases on behalf of occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, under a nonresidential utility service rate

classification may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for credit or refund to the director of revenue and the director shall give credit or make refund for taxes paid on the domestic use portion of the purchase. The person making such purchases on behalf of occupants of residential apartments or condominiums shall have standing to apply to the director of revenue for such credit or refund;

(24) All sales of handicraft items made by the seller or the seller's spouse if the seller or the seller's spouse is at least sixty-five years of age, and if the total gross proceeds from such sales do not constitute a majority of the annual gross income of the seller;

(25) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of revenue shall promulgate rules pursuant to chapter 536 to eliminate all state and local sales taxes on such excise taxes;

(26) Sales of fuel consumed or used in the operation of ships, barges, or waterborne vessels which are used primarily in or for the transportation of property or cargo, or the conveyance of persons for hire, on navigable rivers bordering on or located in part in this state, if such fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such river;

(27) All sales made to an interstate compact agency created pursuant to sections 70.370 to 70.441 or sections 238.010 to 238.100 in the exercise of the functions and activities of such agency as provided pursuant to the compact;

(28) Computers, computer software and computer security systems purchased for use by architectural or engineering firms headquartered in this state. For the purposes of this subdivision, "headquartered in this state" means the office for the administrative management of at least four integrated facilities operated by the taxpayer is located in the state of Missouri;

(29) All livestock sales when either the seller is engaged in the growing, producing or feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering or leasing of such livestock;

(30) All sales of barges which are to be used primarily in the transportation of property or cargo on interstate waterways;

(31) Electrical energy or gas, whether natural, artificial or propane, water, or other utilities which are ultimately consumed in connection with the manufacturing of cellular glass products or in any material recovery processing plant as defined in subdivision (4) of this subsection;

(32) Notwithstanding other provisions of law to the contrary, all sales of pesticides or herbicides used in the production of crops, aquaculture, livestock or poultry;

(33) Tangible personal property and utilities purchased for use or consumption directly or exclusively in the research and development of agricultural/biotechnology and plant genomics products and prescription pharmaceuticals consumed by humans or animals;

(34) All sales of grain bins for storage of grain for resale;

(35) All sales of feed which are developed for and used in the feeding of pets owned by a commercial breeder when such sales are made to a commercial breeder, as defined in section 273.325, and licensed pursuant to sections 273.325 to 273.357;

(36) All purchases by a contractor on behalf of an entity located in another state, provided that the entity is authorized to issue a certificate of exemption for purchases to a contractor under the provisions of that state's laws. For purposes of this subdivision, the term "certificate of exemption" shall mean any document evidencing that the entity is exempt from sales and use taxes on purchases pursuant to the laws of the state in which the entity is located. Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's exemption certificate as evidence of the exemption. If the exemption certificate issued by the exempt entity to the contractor is later determined by the director of revenue to be invalid for any reason and the contractor has accepted the certificate in good faith, neither the contractor or the exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result of use of the invalid

exemption certificate. Materials shall be exempt from all state and local sales and use taxes when purchased by a contractor for the purpose of fabricating tangible personal property which is used in fulfilling a contract for the purpose of constructing, repairing or remodeling facilities for the following:

(a) An exempt entity located in this state, if the entity is one of those entities able to issue project exemption certificates in accordance with the provisions of section 144.062; or

(b) An exempt entity located outside the state if the exempt entity is authorized to issue an exemption certificate to contractors in accordance with the provisions of that state's law and the applicable provisions of this section;

(37) All sales or other transfers of tangible personal property to a lessor who leases the property under a lease of one year or longer executed or in effect at the time of the sale or other transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441 or sections 238.010 to 238.100;

(38) Sales of tickets to any collegiate athletic championship event that is held in a facility owned or operated by a governmental authority or commission, a quasi-governmental agency, a state university or college or by the state or any political subdivision thereof, including a municipality, and that is played on a neutral site and may reasonably be played at a site located outside the state of Missouri. For purposes of this subdivision, "neutral site" means any site that is not located on the campus of a conference member institution participating in the event;

(39) All purchases by a sports complex authority created under section 64.920, and all sales of utilities by such authority at the authority's cost that are consumed in connection with the operation of a sports complex leased to a professional sports team;

(40) Beginning January 1, 2009, but not after January 1, 2015, materials, replacement parts, and equipment purchased for use directly upon, and for the modification, replacement, repair, and maintenance of aircraft, aircraft power plants, and aircraft accessories;

(41) Sales of sporting clays, wobble, skeet, and trap targets to any shooting range or similar places of business for use in the normal course of business and money received by a shooting range or similar places of business from patrons and held by a shooting range or similar place of business for redistribution to patrons at the conclusion of a shooting event.

**262.815. CITATION OF LAW, PURPOSE — TRUST CREATED, OBJECTIVES — ADVISORY BOARD CREATED, MEMBERS, DUTIES, TERMS — FUND CREATED — RULEMAKING AUTHORITY. — 1.** This section shall be known and may be cited as the "Missouri Farmland Trust Act". The purpose of this section is to allow individuals and entities to donate, gift, or otherwise convey farmland to the state department of agriculture for the purpose of preserving the land as farmland and to further provide beginning farmers with an opportunity to farm by allowing long-term low and variable cost leases, thereby making it affordable for the next generation of farmers to continue to produce food, fiber, and fuel.

**2.** There is hereby created the "Missouri Farmland Trust" which shall be implemented in a manner to accomplish the following objectives:

(1) Protect and preserve Missouri's farmland;

(2) Link new generations of prospective farmers with present farmers; and

(3) Promote best practices in environmental, livestock, and land stewardship.

**3. (1)** There is hereby created within the department of agriculture the "Missouri Farmland Trust Advisory Board" which shall be comprised of five members appointed by the director of the department of agriculture. Members shall serve without compensation but, subject to appropriations, may be reimbursed for actual and necessary expenses.

**(2)** The board shall make recommendations to the director on the appropriate uses of farmland in the trust, criteria to be used to select applicants for the program, and review and make recommendations regarding applications to lease farmland in the trust.

(3) Members shall serve five-year terms, with each term beginning July first and ending June thirtieth; except that, of the members initially appointed two shall be appointed for a term of three years, two shall be appointed for a term of four years, and one shall be appointed for a term of five years. Each member shall serve until his or her successor is appointed. Any vacancies occurring prior to the expiration of a term shall be filled by appointment for the remainder of such term. No member shall serve more than two consecutive terms.

4. The department of agriculture is authorized to accept or acquire by purchase, lease, donation, or agreement any agricultural lands, easements, real and personal property, or rights in lands, easements, or real and personal property, including but not limited to buildings, structures, improvements, equipment, or facilities subject to preservation and improvement. Such lands shall be properties of the Missouri farmland trust for purposes of this section and shall be governed by the provisions of this section and rules promulgated thereunder.

5. (1) There is hereby created in the state treasury the "Missouri Farmland Trust Fund", which shall consist of all gifts, bequests, donations, transfers, and moneys appropriated by the general assembly under this section. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. Upon appropriation, money in the fund shall be used for the administration of this section and may be used to make payments to counties for the value of land as payment in lieu of real and personal property taxes for privately owned land acquired after the effective date of this section in such amounts as determined by the department; except that, the amount determined shall not be less than the real property tax paid at the time of acquisition. The department of agriculture may require applicants who are awarded leases to pay the property taxes owed under this section for such property.

(2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

(3) The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

6. The department of agriculture is authorized to accept all moneys, appropriations, gifts, bequests, donations, or other contributions of moneys or other real or personal property to be expended or used for any of the purposes of this section. The department may improve, maintain, operate, and regulate any such lands, easements, or real or personal property to promote agriculture and the general welfare using moneys in the fund. Property acquired by the department under this section shall be used for agricultural purposes. The director shall establish by rule guidelines for leasing farmland to the trust to beginning farmers for a period not to exceed twenty years. All property acquired by the department under this section shall be farmed and maintained using the best environmental, conservation, and stewardship practices as outlined by the department. The department may charge an administrative fee for lease application processing under this section.

7. The department, in consultation with the Missouri farmland advisory board, shall promulgate rules to implement the provisions of this section, including but not limited to requirements for lessees, selection process for granting leases, and the terms of the lease, including requirements for applicants, renewal process, requirements for the maintenance of real and personal property by the lessee, and conditions for the termination of leases.

8. Any person or entity donating land to or leasing land from the department shall forever release the state of Missouri, the Missouri department of agriculture, the

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department's director, officers, employees, volunteers, agents, contractors, servants, heirs, successors, assigns, persons, firms, corporations, representatives, and other entities who are or who will be acting in concert or privity with or on behalf of the state from any and all actions, claims, or demands that he or she, family members, heirs, successors, assigns, agents, servants, employees, distributees, guardians, next-of-kin, spouse, and legal representatives now have or may have in the future for any injury, death, property damage related to:

- (1) Participation in such activities;
- (2) The negligence, intentional acts, or other acts, whether directly connected to such activities or not, and however caused; and
- (3) The condition of the premises where such activities occur.

9. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2011, shall be invalid and void.

**263.190. OWNERS TO CONTROL NOXIOUS WEEDS — NOTICE PROCEDURE — PENALTY — SALE OF NOXIOUS WEEDS PROHIBITED.** — 1. [The plants musk thistle (*Carduus nutans* L.), Scotch thistle (*Onoprodum acanthium* L.) and Canada thistle (*Cirsium arvense*) are hereby designated as noxious weeds. All owners of land shall control all such plants growing upon their land] As used in sections 263.190 to 263.474, "noxious weed" means any weed designated as noxious by rules promulgated by the director of the department of agriculture. The department shall maintain a list of such noxious weeds and shall make such list available to the public. The department of agriculture shall promulgate rules necessary to implement the provisions of this subsection. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this subsection shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This subsection and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2011, shall be invalid and void.

2. It shall be the duty of every owner of lands in this state, including but not limited to any person, association of persons, corporation, partnership, state highways and transportation commission, state department, state agency, county commission, township board, school board, drainage board, governing body of an incorporated city, railroad company or other transportation company and such company's authorized agent, and any person supervising state-owned lands to control all [Canada, musk, or Scotch thistles] noxious weeds growing thereon so often in each and every year as shall be sufficient to prevent [said thistles] such noxious weeds from going to seed. If any owner of such land shall knowingly allow any [Canada, musk, or Scotch thistles] noxious weeds to grow thereon, such owner shall forfeit and pay the sum of one hundred dollars to the county commission for every such offense, and such sum forfeited plus court costs may be recovered by civil action instituted by the prosecuting attorney in the name of the county commission before any associate circuit judge of the county in which the offense is committed. All sums recovered by virtue of this section shall be paid to the use of the county control fund.

3. Before initiating any civil action under this section, the prosecuting attorney of the county in which the land, or the greater part thereof, is located shall notify the owner of the land of the requirements of this law, by certified mail, return receipt requested, from a list supplied by the officer who prepares the tax list, and shall allow the owner of the land fifteen days from acknowledgment date of return receipt, or date of refusal of acceptance, as the case may be, to **initiate control of** all such plants growing upon [his] **the owner's** land. Failure of the owner to **initiate control of** such plants within the fifteen-day period shall be prima facie evidence of the owner's knowledge that [he] **the owner** is in violation of this law, and each fifteen days the violation continues after the initial fifteen-day period shall, for the purpose of forfeiture and penalty herein, be considered a separate offense.

**4. All sales of noxious weed species are prohibited.**

**263.200. COUNTY COMMISSION DUTIES TO CONTROL NOXIOUS WEEDS, OFFICIAL IMMUNITY, LANDOWNER DUTY OF CARE — SPECIAL TAX FOR COST, COLLECTION — PROVISIONS APPLICABLE TO CERTAIN POLITICAL SUBDIVISIONS.** — 1. In addition to the remedies provided in section 263.190, when [Canada, musk, or Scotch thistles] **noxious weeds** are discovered growing on any lands in the county, it shall be the duty of the county commission to control such [thistles] **noxious weeds** so as to prevent the seed from ripening, and for that purpose the county commission, or its agents, servants, or employees shall have authority to enter on such lands without being liable to an action of trespass therefor, and shall have such official immunity as exists at common law for any misfeasance or damages occurring in connection with the attempt to control [Canada, musk, or Scotch thistles] **noxious weeds**. Notwithstanding any provision of law to the contrary, the county shall be liable for any misfeasance or actual damages caused by its agents, servants, or employees in connection with the attempt to control [Canada, musk, or Scotch thistles] **noxious weeds**. The landowner shall owe no duty of care to such persons, except that which the landowner owes to trespassers. The county commission shall keep an accurate account of the expenses incurred in controlling the [thistles] **noxious weeds**, and shall verify such statement under seal of the county commission, and transmit the same to the officer whose duty it is or may be to extend state and county taxes on tax books or bills against real estate; and such officer shall extend the aggregate expenses so charged against each tract of land as a special tax, which shall then become a lien on the lands, and be collected as state and county taxes are collected by law and paid to the county commission and credited to the county control fund.

2. Before proceeding to control [Canada, musk, or Scotch thistles] **noxious weeds** as provided in this section, the county commission of the county in which the land, or the greater part thereof, is located shall notify the owner of the land of the requirements of this law, by certified mail, return receipt requested, from a list supplied by the officer who prepares the tax list, and shall allow the owner of the land fifteen days from acknowledgment date of return receipt, or date of refusal of acceptance of delivery, as the case may be, to control all such [plants] **noxious weeds** growing upon [his] **the owner's** land.

3. Any land or properties that are owned solely by a political subdivision in a city not within a county shall be subject to all provisions of sections 263.190, 263.200, and 263.240.

**263.220. DUTY OF PROSECUTING ATTORNEY.** — It shall be the duty of the prosecuting attorney of the county to prosecute all actions brought under [sections 263.190 to 263.240] **section 263.190**.

**263.240. PENALTY FOR VIOLATION.** — [Any person who shall violate any of the provisions of sections 263.210 to 263.240 shall, upon conviction, be guilty of] **A violation of section 263.190 is a misdemeanor.**

**268.121. RECORDED BRAND LIST A PUBLIC RECORD, FURNISHED TO GENERAL PUBLIC AT COST.** — It shall be the duty of the director from time to time to [cause to be published in book form] **create** a list of all brands on record at [the time of the publication] **that time and make such list available to the public on a publicly-accessible website.** The [lists may be supplemented] **list shall be updated** from time to time. The [publication] **list** shall contain a facsimile of all brands recorded and the owner's name and post-office address. The records shall be arranged in convenient form for reference. [It shall be the duty of the director to send one copy of the brand book and supplements to the county recorder of deeds of each county and to each licensed livestock market and slaughter plant in the state. The books and supplements shall be furnished without cost to the livestock market or slaughter plant or to the county and shall be kept as a matter of public record.] The [books and supplements] **list** may be sold to the general public at the cost of **its** printing and mailing [each book].

**276.401. TITLE, AND SCOPE OF THE LAW — DEFINITIONS.** — 1. Sections 276.401 to 276.582 shall be known as the "Missouri Grain Dealer Law".

2. The provisions of the Missouri grain dealer law shall apply to grain purchases where title to the grain transfers from the seller to the buyer within the state of Missouri.

3. Unless otherwise specified by contractual agreement, title shall be deemed to pass to the buyer as follows:

(1) On freight on board (FOB) origin or freight on board (FOB) basing point contracts, title transfers at time and place of shipment;

(2) On delivered contracts, when and where constructively placed, or otherwise made available at buyer's original destination;

(3) On contracts involving in-store commodities, at the storing warehouse and at the time of contracting or transfer, and/or mailing of documents, if required, by certified mail, unless and to the extent warehouse tariff, warehouse receipt and/or storage contract assumes the risk of loss and/or damage.

4. As used in sections 276.401 to 276.582, unless the context otherwise requires, the following terms mean:

(1) "Auditor", a person appointed under sections 276.401 to 276.582 by the director to assist in the administration of sections 276.401 to 276.582, and whose duties include making inspections, audits and investigations authorized under sections 276.401 to 276.582;

(2) "Authorized agent", any person who has the legal authority to act on behalf of, or for the benefit of, another person;

(3) "Buyer", any person who buys or contracts to buy grain;

(4) "Certified public accountant", any person licensed as such under chapter 326;

(5) "Claimant", any person who requests payment for grain sold by him to a dealer, but who does not receive payment because the purchasing dealer fails or refuses to make payment;

(6) "Credit sales contracts", a conditional grain sales contract wherein payment and/or pricing of the grain is deferred to a later date. Credit sales contracts include, but are not limited to, all contracts meeting the definition of deferred payment contracts, and/or delayed price contracts;

(7) "Current assets", resources that are reasonably expected to be realized in cash, sold, or consumed (prepaid items) within one year of the balance sheet date;

(8) "Current liabilities", obligations reasonably expected to be liquidated within one year and the liquidation of which is expected to require the use of existing resources, properly classified as current assets, or the creation of additional liabilities. Current liabilities include obligations that, by their terms, are payable on demand unless the creditor has waived, in writing, the right to demand payment within one year of the balance sheet date;

(9) "Deferred payment agreement", a conditional grain sales transaction establishing an agreed upon price for the grain and delaying payment to an agreed upon later date or time period.

Ownership of the grain, and the right to sell it, transfers from seller to buyer so long as the conditions specified in section 276.461 and section 411.325 are met;

(10) "Deferred pricing agreement", a conditional grain sales transaction wherein no price has been established on the grain, the seller retains the right to price the grain later at a mutually agreed upon method of price determination. Deferred pricing agreements include, but are not limited to, contracts commonly known as no price established contracts, price later contracts, and basis contracts on which the purchase price is not established at or before delivery of the grain. Ownership of the grain, and the right to sell it, transfers from seller to buyer so long as the conditions specified in section 276.461 and section 411.325 are met;

(11) "Delivery date" shall mean the date upon which the seller transfers physical possession, or the right of physical possession, of the last unit of grain in any given transaction;

(12) "Department", the Missouri department of agriculture;

(13) "Designated representative", an employee or official of the department designated by the director to assist in the administration of sections 276.401 to 276.582;

(14) "Director", the director of the Missouri department of agriculture or his designated representative;

(15) "Generally accepted accounting principles", the conventions, rules and procedures necessary to define accepted accounting practice, which include broad guidelines of general application as well as detailed practices and procedures generally accepted by the accounting profession, and which have substantial authoritative support from the American Institute of Certified Public Accountants;

(16) "Grain", all grains for which the United States Department of Agriculture has established standards under the United States Grain Standards Act, Sections 71 to 87, Title 7, United States Code, and any other agricultural commodity or seed prescribed by the director by regulation;

(17) "Grain dealer" or "dealer", any person engaged in the business of, or as a part of his business participates in, buying grain where title to the grain transfers from the seller to the buyer within the state of Missouri. "Grain dealer" or "dealer" shall not be construed to mean or include:

(a) Any person or entity who is a member of a recognized board of trade or futures exchange and whose trading in grain is limited solely to trading with other members of a recognized board of trade or futures exchange; provided, that grain purchases from a licensed warehouseman, farmer/producer or any other individual or entity in a manner other than through the purchase of a grain futures contract on a recognized board of trade or futures exchange shall be subject to sections 276.401 to 276.582. Exempted herein are all futures transactions;

(b) A producer or feeder of grain for livestock or poultry buying grain for his own farming or feeding purposes who purchases grain exclusively from licensed grain dealers or whose total grain purchases from producers during his or her fiscal year do not exceed [one hundred thousand dollars] **fifty thousand bushels**;

(c) Any person or entity whose grain purchases in the state of Missouri are made exclusively from licensed grain dealers;

(d) A manufacturer or processor of registered or unregistered feed whose total grain purchases from producers during his or her fiscal year does not exceed one hundred thousand dollars and who pays for all grain purchases from producers at the time of physical transfer of the grain from the seller or his or her agent to the buyer or his or her agent and whose resale of such grain is solely in the form of manufactured or processed feed or feed by-products or whole feed grains to be used by the purchaser thereof as feed;

(18) "Grain transport vehicle", a truck, tractor-trailer unit, wagon, pup, or any other vehicle or trailer used by a dealer, whether owned or leased by him, to transport grain which he has purchased; except that, bulk or bagged feed delivery trucks which are used principally for the purpose of hauling feed and any trucks for which the licensed gross weight does not exceed twenty-four thousand pounds shall not be construed to be a grain transport vehicle;

- (19) "Insolvent" or "insolvency", (a) an excess of liabilities over assets or (b) the inability of a person to meet his financial obligations as they come due, or both (a) and (b);
- (20) "Interested person", any person having a contractual or other financial interest in grain sold to a dealer, licensed, or required to be licensed;
- (21) "Location", any site other than the principal office where the grain dealer engages in the business of purchasing grain;
- (22) "Minimum price contract", a conditional grain sales transaction establishing an agreed upon minimum price where the seller may participate in subsequent price gain, if any. Ownership of the grain, and the right to sell it, transfers from the seller to the buyer so long as the conditions specified in section 276.461 and section 411.325 are met;
- (23) "Person", any individual, partnership, corporation, cooperative, society, association, trustee, receiver, public body, political subdivision or any other legal or commercial entity of any kind whatsoever, and any member, officer or employee thereof;
- (24) "Producer", any owner, tenant or operator of land who has an interest in and receives all or any part of the proceeds from the sale of grain or livestock produced thereon;
- (25) "Purchase", to buy or contract to buy grain;
- (26) "Sale", the passing of title from the seller to the buyer in consideration of the payment or promise of payment of a certain price in money, or its equivalent;
- (27) "Value", any consideration sufficient to support a simple contract.

**276.421. FINANCIAL STATEMENT TO ACCOMPANY APPLICATION, HOW PREPARED — FALSE STATEMENT, PENALTY — MINIMUM NET WORTH AND ASSETS REQUIRED.** — 1. All applications shall be accompanied by a true and accurate financial statement of the applicant, prepared within six months of the date of application, setting forth all the assets, liabilities and net worth of the applicant. **In the event that the applicant has been engaged in business as a grain dealer for at least one year, the financial statement shall set forth the aggregate dollar amount paid for grain purchased in Missouri and those states with whom Missouri has entered into contracts or agreements as authorized by section 276.566 during the last completed fiscal period of the applicant. In the event the applicant has been engaged in business for less than one year or has not previously engaged in business as a grain dealer, the financial statement shall set forth the estimated aggregate dollar amount to be paid for grain purchased in Missouri and those states with whom Missouri has entered into contracts or agreements as authorized by section 276.566 during the applicant's initial fiscal period.** All applications shall also be accompanied by a true and accurate statement of income and expenses for the applicant's most recently completed fiscal year. The financial statements required by this chapter shall be prepared in conformity with generally accepted accounting principles; except that, the director may promulgate rules allowing for the valuation of assets by competent appraisal.

2. The financial statement required by subsection 1 of this section shall be audited or reviewed by a certified public accountant. The financial statement may not be audited or reviewed by the applicant, or an employee of the applicant, if an individual, or, if the applicant is a corporation or partnership, by an officer, shareholder, partner, or a direct employee of the applicant.

3. The director may require any additional information or verification with respect to the financial resources of the applicant as he deems necessary for the effective administration of this chapter. The director may promulgate rules setting forth minimum standards of acceptance for the various types of financial statements filed in accordance with the provisions of this chapter. The director may promulgate rules requiring a statement of retained earnings, a statement of changes in financial position, and notes and disclosures to the financial statements for all licensed grain dealers or all grain dealers required to be licensed. The additional information or verification referred to herein may include, but is not limited to, requiring that the financial statement

information be reviewed or audited in accordance with standards established by the American Institute of Certified Public Accountants.

4. All grain dealers shall provide the director with a copy of all financial statements and updates to financial statements utilized to secure the bonds required by sections 276.401 to 276.582.

5. All financial statements submitted to the director for the purposes of this chapter shall be accompanied by a certification by the applicant or the chief executive officer of the applicant, subject to the penalty provision set forth in subsection 4 of section 276.536, that to the best of his knowledge and belief the financial statement accurately reflects the financial condition of the applicant for the fiscal period covered in the statement.

6. Any person who knowingly prepares or assists in the preparation of an inaccurate or false financial statement which is submitted to the director for the purposes of this chapter, or who during the course of providing bookkeeping services or in reviewing or auditing a financial statement which is submitted to the director for the purposes of this chapter, becomes aware of false information in the financial statement and does not disclose in notes accompanying the financial statements that such false information exists, or does not disassociate himself from the financial statements prior to submission, is guilty of a class C felony. Additionally, such persons are liable for any damages incurred by sellers of grain selling to a grain dealer who is licensed or allowed to maintain his license based upon inaccuracies or falsifications contained in the financial statement.

7. [Except as set forth in section 276.511 which mandates higher requirements for class I grain dealers,] Any licensed grain dealer or applicant for a grain dealer's license [who purchases less than four hundred thousand dollars worth of grain, during the dealer's last completed fiscal year, in the state of Missouri and those states with whom Missouri has entered into contracts or agreements as authorized by section 276.566 must] **shall** maintain a minimum net worth equal to [the greater of ten thousand dollars or] five percent of [such] **annual** grain purchases[. If grain purchases during the dealer's last completed fiscal year are four hundred thousand dollars or more, the dealer must maintain a net worth equal to the greater of twenty thousand dollars or one percent of grain purchases] **as set forth in the financial statements required by this chapter**. If the dealer or applicant is deficient in meeting this net worth requirement, he must post additional bond as required in section 276.436.

**8. Any licensed grain dealer or applicant for a grain dealer's license shall have and maintain current assets at least equal to one hundred percent of current liabilities. The financial statement required by this chapter shall set forth positive working capital in the form of a current ratio of the total adjusted current assets to the total adjusted current liabilities of at least one to one.**

(1) The director may allow applicants to offset negative working capital by increasing the grain dealer surety bond required by section 276.426 up to the total amount of negative working capital at the discretion of the director.

(2) Adjusted current assets shall be calculated by deducting from the stated current assets shown on the financial statement submitted by the applicant any current asset resulting from notes receivable from related persons, accounts receivable from related persons, stock subscriptions receivable, and any other related person receivables.

(3) A disallowed current asset shall be netted against any related liability and the net result, if an asset, shall be subtracted from the current assets.

**276.436. AMOUNT OF BOND — DIRECTOR TO ESTABLISH BY RULE — FORMULA — MINIMUM AND MAXIMUM — ADDITIONAL BOND BECAUSE OF LOW NET WORTH OR OTHER CIRCUMSTANCES — FAILURE TO MAINTAIN, EFFECT. — 1.** The total amount of the surety bond required of a dealer licensed pursuant to sections 276.401 to 276.582 shall be established by the

director by rule, but in no event shall such bond be less than [twenty] **fifty** thousand dollars nor more than [three] **six** hundred thousand dollars, except as authorized by other provisions of sections 276.401 to 276.582.

2. The formula for determining the amount of bond shall be established by the director by rule and shall be computed at a rate of no less than the principal amount to the nearest one thousand dollars, equal to [not less than one percent and not more than five] **two** percent of the aggregate dollar amount paid by the dealer for grain purchased in the state of Missouri and those states with whom Missouri has entered into contracts or agreements as authorized by section 276.566 during the dealer's last completed fiscal year, or, in the case of a dealer who has been engaged in business as a grain dealer for less than one year or who has not previously engaged in such business, [not less than one percent and not more than five] **two** percent of the estimated aggregate dollar amount to be paid by the dealer for grain purchased in the state of Missouri and those states with whom Missouri has entered into contracts or agreements as authorized by section 276.566 during the applicant's initial fiscal year.

3. Any licensed grain dealer or applicant who has, at any time, a net worth less than the amount required by subsection 7 of section 276.421, shall be required to obtain a surety bond in the amount of one thousand dollars for each one thousand dollars or fraction thereof of the net worth deficiency. Failure to post such additional bond is grounds for refusal to license or the suspension or revocation of a license issued under sections 276.401 to 276.582. This additional bond can be in addition to or greater than or both in addition to and greater than the maximum bond as set by this section.

4. The director may, when the question arises as to a grain dealer's ability to pay for grain purchased, require a grain dealer to post an additional bond in a dollar amount deemed appropriate by the director. Such additional bond can be in addition to or greater than or both in addition to and greater than the maximum bond as set by this section. The director must furnish to the dealer, by certified mail, a written statement of the reasons for requesting additional bond and the reasons for questioning the dealer's ability to pay. Failure to post such additional bond is a ground for modification, suspension or revocation by the director of a license issued under sections 276.401 to 276.582. The determination of insufficiency of a bond and of the amount of the additional bond shall be based upon evidence presented to the director that a dealer:

- (1) Is or may be unable to meet his dollar or grain obligations as they become due;
- (2) Has acted or is acting in a way which might lead to the impairment of his capital;
- (3) As a result of his activity, inactivity, or purchasing and pricing practices and procedures, including, but not limited to, the dealer's deferred pricing or deferred payment practices and procedures, is or may be unable to honor his grain purchase obligations arising out of his dealer business. The amount of the additional bond required under this subsection shall not exceed the amount of the dealer's current loss position. Current loss position shall be the sum of the dealer's current liabilities less current assets or the amount by which he is currently unable to meet the grain purchase obligations arising out of his dealer business.

5. One bond, cumulative as to minimum requirements, may be given where a dealer has multiple licenses; except however, that in computing the amount of the single bond the grain dealer may add together the total purchases of grain of all locations to be covered thereby and use the aggregate total purchases for the fiscal year for the purpose of computing bond. However, this single cumulative bond must be at least equal to [twenty] **fifty** thousand dollars per dealer license issued up to the [three] **six** hundred thousand dollar maximum bond amount specified in subsection 1 of this section. When a grain dealer elects to provide a single bond for a number of licensed locations, the total assets of all the licensed locations shall be subject to liabilities of each individual licensed location.

6. Failure of a grain dealer to provide and file a bond and financial statement and to keep such bond in force shall be grounds for the suspension or revocation, by the director, of a license issued under sections 276.401 to 276.582.

7. A dealer shall be required to post additional surety bond when he surpasses the estimated aggregate dollar amount to be paid for grain purchased as set forth in subsection 2 of this section. Such additional bond shall be determined by the director so as to effectively protect sellers of grain dealing with such dealer.

**276.441. DEALER MAY REQUEST USE OF MINIMUM BOND, PROCEDURE.** — 1. Any grain dealer who is of the opinion that his net worth is sufficient to guarantee payment for grain purchased by him may make a formal, written request to the director that he be relieved of the obligation of filing a bond in excess of the minimum bond of [twenty] **fifty** thousand dollars. Such request shall be accompanied by a financial statement of the applicant, prepared within four months of the date of such request and accompanied by such additional information concerning the applicant and his finances as the director may require which may include the request for submission of a financial statement audited by a public accountant.

2. If such financial statement discloses a net worth equal to at least five times the amount of the bond otherwise required by sections 276.401 to 276.582, and the director is otherwise satisfied as to the financial ability and resources of the applicant, the director may waive that portion of the required bond in excess of [twenty] **fifty** thousand dollars for each license issued.

**411.280. WAREHOUSEMAN'S NET WORTH, REQUIREMENTS — DEFICIENCY, HOW CORRECTED.** — Every warehouseman licensed under the provisions of this chapter shall have and maintain a net worth equal to the greater of ten thousand dollars or the amount which results from multiplying the storage capacity of the warehouse by [fifteen] **twenty-five** cents per bushel. Capital stock, for the purpose of determining the net worth, shall not be considered a liability. Any deficiency in required net worth above the ten thousand dollar minimum requirement may be met by supplying additional bond in an amount equal to one thousand dollars for each one thousand dollars or fraction thereof of deficiency.

**442.014. PRIVATE LANDOWNER PROTECTION ACT — DEFINITIONS — CONSERVATION EASEMENT PERMITTED, WHEN, VALIDITY — APPLICABILITY.** — 1. This act shall be known and may be cited as the "Private Landowner Protection Act".

2. As used in this section, unless the context otherwise requires, the following terms mean:

(1) "Conservation easement", a nonpossessory interest of a holder in real property imposing limitations or affirmative obligations the purposes of which include retaining or protecting natural, scenic, or open-space values of real property, assuring its availability for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property;

(2) "Holder", any of the following:

(a) A governmental body empowered to hold an interest in real property under the laws of this state or the United States;

(b) A charitable corporation, charitable association, or charitable trust, the purposes, powers, or intent of which include retaining or protecting the natural, scenic, or open-space values of real property, assuring the availability of real property for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property; or

(c) An individual or other private entity;

(3) "Third-party right of enforcement", a right expressly provided in a conservation easement to enforce any of its items granted to a designated governmental body, charitable



corporation, charitable association, charitable trust, individual, or any other private entity which, although eligible to be a holder, is not a holder.

3. (1) Except as otherwise provided in this section, a conservation easement may be created, conveyed, recorded, assigned, released, modified, terminated, or otherwise altered or affected in the same manner as other easements. No right or duty in favor of or against a holder and no right in favor of a person having a third-party right of enforcement arises under a conservation easement before its acceptance by the holder and a recordation of the acceptance. Except as provided in subdivision (2) of this subsection, a conservation easement is unlimited in duration unless the instrument creating it provides otherwise.

(2) An interest in real property in existence at the time a conservation easement is created is not impaired by it unless the owner of the interest is a party to the conservation easement or consents to it.

4. (1) An action affecting a conservation easement may be brought by an owner of an interest in real property burdened by the easement; a holder of the easement, a person having a third-party right of enforcement; or a person authorized by other law.

(2) This section does not affect the power of a court to modify or terminate a conservation easement in accordance with the principles of law and equity.

5. A conservation easement is valid even though:

(1) It is not appurtenant to an interest in real property;  
(2) It can be or has been assigned to another holder;  
(3) It is not of a character that has been recognized traditionally at common law;  
(4) It imposes a negative burden that would prevent a landowner from performing acts on the land he or she would otherwise be privileged to perform absent the agreed-upon easement;

(5) It imposes affirmative obligations upon the owner of an interest in the burdened property or upon the holder;

(6) The benefit does not touch or concern real property; or

(7) There is no privity of estate or of contract.

6. Nothing in this section shall affect the ability of any public utility, municipal utility, joint municipal utility commission, rural electric cooperative, telephone cooperative, or public water supply district to acquire an easement, either through negotiation with an owner of an interest in real property or by condemnation, to lay or construct plants or facilities for the transmission or distribution of electricity, natural gas, telecommunications service, water, or the carriage of sewage along or across a conservation easement.

7. This section applies to any interest created after its effective date which complies with this section, whether designated as a conservation easement or as a covenant, equitable servitude, restriction, easement, or otherwise. This section applies to any interest created before its effective date if it would have been enforceable had it been created after its effective date unless retroactive application contravenes the constitution or laws of this state or the United States. This section does not alter the terms of any interest created before its effective date, or impose any additional burden or obligation on any grantor or grantee of such interest, or on their successors or assigns. This section does not invalidate any interest, whether designated as a conservation or preservation easement or as a covenant, equitable servitude, restriction, easement, or otherwise, that is enforceable under other laws of this state.

**[263.205. MULTIFLORA ROSE A NOXIOUS WEED, EXCEPTIONS — COUNTIES MAY ESTABLISH PROGRAMS AND FUNDS TO CONTROL NOXIOUS WEEDS. — 1.** The plant multiflora rose (*rosa multiflora*) is hereby declared to be a noxious weed; except, notwithstanding any other provision of this section, multiflora rose (*rosa multiflora*) shall

not be considered a noxious weed when cultivated for or used as understock for cultivated roses.

2. The governing body of any county of this state may opt to establish a "County Noxious Weed Fund" for the purpose of making grants on a cost share basis for the control of any noxious weed, as the plant may be designated under this section.

3. Any county opting to establish a county noxious weed fund, shall establish a noxious weed control program. No resident or owner of land of any county shall be required to participate in a county noxious weed control program; however, any resident or landowner making application for cost share grants under this section shall participate in said program.

4. For the purpose of administering the county noxious weed fund, the county governing body shall have sole discretion of awarding cost share grants under this section.

5. For the purpose of funding the county noxious weed fund, the county governing body may appropriate county funds, and/or solicit municipality, state agency, state general revenue, and federal agency funds. All such funds shall be deposited in the county noxious weed fund to be expended for the sole purpose of controlling noxious weeds so designated under this section.

6. Any county opting to establish a county noxious weed control program under this section may make rules and regulations governing said program, and any county opting to establish a county noxious weed fund under this section shall establish a cost share ratio on an annual basis beginning with the creation of the fund.]

**[263.230. CONTROL OF SPREAD OF BINDWEED, BY WHOM.** — It shall be the duty of any person or persons, association of persons, corporations, partnerships, the state highways and transportation commission, the county commissions, the township boards, school boards, drainage boards, the governing bodies of incorporated cities, railroad companies and other transportation companies or their authorized agents and those supervising state-owned lands to control the spread of and to eradicate by methods approved by the state department of agriculture field bindweed (*convolvulus arvensis*) hereby designated as a noxious and dangerous weed to agriculture.]

**[263.232. ERADICATION AND CONTROL OF THE SPREAD OF TEASEL, KUDZU VINE, AND SPOTTED KNAPWEED.** — It shall be the duty of any person or persons, association of persons, corporations, partnerships, the state highways and transportation commission, any state department, any state agency, the county commissions, the township boards, school boards, drainage boards, the governing bodies of incorporated cities, railroad companies and other transportation companies or their authorized agents and those supervising state-owned lands:

(1) To control and eradicate the spread of cut-leaved teasel (*Dipsacus laciniatus*) and common teasel (*Dipsacus fullonum*), which are hereby designated as noxious and dangerous weeds to agriculture, by methods in compliance with the manufacturer's label instructions when chemical herbicides are used for such purposes;

(2) To control the spread of kudzu vine (*Pueraria lobata*), which is hereby designated as a noxious and dangerous weed to agriculture, by methods in compliance and conformity with the manufacturer's label instructions when chemical herbicides are used for such purposes; and

(3) To control the spread of spotted knapweed (*Centaurea stoebe* ssp. *micranthos*, including all subspecies), which is hereby designated as a noxious and dangerous weed to agriculture, by methods in compliance and conformity with the manufacturer's label instructions when chemical herbicides are used for such purposes.]

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**[263.241. PLANT, PURPLE LOOSESTRIFE (LYTHRUM SALICARIA) DECLARED A NOXIOUS WEED — DISTRIBUTION FOR CONTROL EXPERIMENTS ONLY, PERMIT REQUIRED, VIOLATIONS, PENALTY.** — The plant, purple loosestrife (*Lythrum salicaria*), and any hybrids thereof, is hereby designated a noxious weed. No person shall buy, sell, offer for sale, distribute or plant seeds, plants or parts of plants of purple loosestrife without a permit issued by the Missouri department of conservation. Such permits shall be issued only for experiments to control and eliminate nuisance weeds. Any person who violates the provisions of this section shall be guilty of a class A misdemeanor.]

**[263.450. NOXIOUS WEED, DEFINED — DESIGNATION OF NOXIOUS WEED BY DIRECTOR OF DEPARTMENT OF AGRICULTURE.** — As used in sections 263.450 to 263.474, the term "noxious weed" includes bindweed (*Convolvulus arvensis*), Johnson grass (*Sorghum halepense*), multiflora rose (*Rosa multiflora*) except when cultivated for or used as understock for cultivated roses, Canada thistle (*Cirsium arvense*), musk thistle (*Carduus nutans* L.), Scotch thistle (*Onoprodum acanthium* L.), purple loosestrife (*Lythrum salicaria*), and any other weed designated as noxious by rules and regulations promulgated by the director of the department of agriculture.]

**[276.416. APPLICATION TO LIST DOLLAR AMOUNTS OF GRAIN PURCHASED OR TO BE PURCHASED.** — In the event that the applicant has been engaged in business as a grain dealer for at least one year, the application shall set forth the aggregate dollar amount paid for grain purchased in Missouri and those states with whom Missouri has entered into contracts or agreements as authorized by section 276.566 during the last completed fiscal period of the applicant. In the event the applicant has been engaged in business for less than one year or has not previously engaged in business as a grain dealer, the application shall set forth the estimated aggregate dollar amount to be paid for grain purchased in Missouri and those states with whom Missouri has entered into contracts or agreements as authorized by section 276.566 during the applicant's initial fiscal period.]

**[276.446. SMALL DEALERS MAY HAVE LOWER MINIMUM BOND.** — Any grain dealer whose total purchases of grain within Missouri and those states with whom Missouri has entered into contracts or agreements as authorized by section 276.566 during any fiscal year, do not exceed an aggregate dollar amount of four hundred thousand dollars may satisfy the bonding requirements of sections 276.401 to 276.581 by filing with the director a bond at the rate of one thousand dollars for each twenty thousand dollars or fraction thereof of the dollar amount to be purchased, with a minimum bond of ten thousand dollars required.]

Approved July 11, 2011

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HB 464 [SCS HCS HB 464]

**EXPLANATION —** Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

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**Eliminates, combines, and revises certain provisions regarding state boards, commissions, committees, and councils**

AN ACT to repeal sections 8.650, 8.900, 21.475, 21.780, 26.600, 26.603, 26.605, 26.607, 26.609, 26.611, 26.614, 32.250, 32.260, 90.101, 105.1006, 105.1010, 105.1012, 162.1000, 162.1060, 166.200, 166.201, 166.203, 166.205, 166.207, 166.209, 166.212, 166.215, 166.218, 166.220, 166.222, 166.225, 166.228, 166.231, 166.233, 166.235, 166.237, 166.240, 166.242, 190.176, 192.350, 192.352, 192.355, 192.735, 192.737, 192.739, 192.742, 192.745, 199.001, 199.003, 199.007, 199.009, 199.010, 199.029, 199.031, 199.037, 199.039, 199.041, 199.043, 199.051, 208.175, 208.195, 208.275, 208.792, 208.955, 210.101, 260.372, 260.705, 260.720, 260.725, 260.735, 286.001, 286.005, 286.200, 286.205, 286.210, 302.136, 304.028, 320.094, 320.205, 324.600, 324.603, 324.606, 324.609, 324.612, 324.615, 324.618, 324.621, 324.624, 324.627, 324.630, 324.635, 324.1100, 324.1102, 324.1103, 324.1104, 324.1106, 324.1108, 324.1110, 324.1112, 324.1114, 324.1116, 324.1118, 324.1120, 324.1122, 324.1124, 324.1128, 324.1130, 324.1132, 324.1134, 324.1136, 324.1138, 324.1140, 324.1144, 332.021, 334.120, 344.060, 344.105, 344.108, 361.070, 361.092, 361.093, 361.094, 361.095, 361.096, 361.097, 361.098, 361.105, 362.040, 362.111, 362.325, 369.014, 369.024, 369.144, 369.159, 369.294, 369.299, 369.304, 369.309, 369.314, 369.319, 369.329, 371.060, 371.090, 371.240, 536.310, 620.638, 620.641, 620.644, 620.647, 620.650, 620.653, 630.900, 630.910, 630.915, 632.020, 660.010, and 701.302, RSMo, section 362.105 as enacted by senate committee substitute for senate bill no. 630, ninety-fifth general assembly, second regular session, and section 362.105 as enacted by senate committee substitute for house committee substitute for house bill no. 221 merged with house substitute for senate committee substitute for senate bill no. 346, ninety-second general assembly, first regular session, and to enact in lieu thereof one hundred ten new sections relating to repealing and revising certain state boards, councils, committees, and commissions, with existing penalty provisions.

**SECTION**

- A. Enacting clause.
- 8.650. Deviations from standards, when permitted.
- 8.900. Memorial for workers killed or disabled on the job — fund established, investment, fund not to lapse into general revenue.
- 37.735. Council assigned to office of administration, members, chairperson — executive director, funding — appointment of members, terms, qualifications — meetings.
- 37.740. Duties of the council.
- 37.745. Funding sources.
- 90.101. Numbers of commissioners — vacancy in board of commissioners, how filled.
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- 620.644. Development of Missouri seed capital and commercialization strategy, required contents — no tax credits issued until corporation approves strategy tax credit maximum — corporation to approve managers of qualified funds — rulemaking authority, procedure — reporting requirements of corporation — qualified fund to provide annual audited financial statements.
- 620.647. Corporation to authorize contractual agreements for qualified economic development organizations — qualified funds to contract with at least one qualified economic development organization, required provisions — payment of distributions to qualified economic development organizations, use of payments, restrictions.
- 620.650. Purpose of qualified funds — tax credit for qualified contribution to qualified fund, amount, application, restrictions — tax on qualified funds uninvested capital, amount, distributions deemed made at end of tax year.
- 620.653. Corporation to approve one qualified fund — transfer of powers — corporation to approve professional fund manager for the qualified fund it approves.
- 632.020. Advisory council for comprehensive psychiatric services — members, number, terms, qualifications, appointment — organization, meetings — duties.
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- 21.475. Wetlands committee created, members — contracts with certain entities, committee approval, when — hearings, reimbursement, staff assistance.
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- 26.605. Community service commission created in office of governor — assignment powers of governor — purpose.
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- 166.231. Rulings from Internal Revenue Service and Securities and Exchange Commission required, when — purchasers to be informed of rulings, when.
- 166.233. Enforcement of contracts, venue in Cole County.
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- 166.242. Payroll deductions authorized.
- 192.350. Pain and symptom management advisory council created, appointment, qualifications, terms, vacancies, how filled.
- 192.352. Members to serve without compensation — expenses to be paid — staff provided by department.
- 192.355. Meetings of council held, when, powers and duties — funds and gifts may be accepted.
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- 260.725. Advisory committee, appointment, qualifications, terms, duties.
- 286.200. Governor's council on disability — members, appointment, terms, qualifications.
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- 286.210. Governor's council on disability may receive funds and property.
- 302.136. Motorcycle safety program advisory committee — members, terms, qualifications — chairman, how appointed — meeting — expenses.
- 324.600. Definitions.
- 324.603. Board created, members, qualifications, terms, vacancies, expenses.
- 324.606. Exemptions from licensure requirements.
- 324.609. Application procedure, contents — qualifications of applicants — conditions of licensure — denial of licensure, when — fee — renewal.
- 324.612. Form of license, contents — posting of license — license card issued.
- 324.615. Agency license requirements — licensees responsible for conduct of employees and agents — maintaining of records.
- 324.618. Prohibited acts.
- 324.621. Advertisement requirements.
- 324.624. Sanctioning of a license, when — appeal procedure.
- 324.627. Board may subpoena persons and documents — enforcement of subpoenas — authority to administer oaths.
- 324.630. Rules.
- 324.635. Falsification of fingerprints, photographs, or information, penalty.
- 324.1140. Board to license persons qualified to train private investigators, qualifications — application procedure — certificate granted, when — expiration of certificate.
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- 630.900. State suicide prevention plan to be submitted to general assembly, when — contents.
- 630.910. Suicide prevention advisory committee created, members, terms, meetings, duties.
- 630.915. Funding for participation in the National Violent Death Reporting System to be sought — state-based system to be developed, when — use of information — sunset provision.
- 701.302. Advisory committee on lead poisoning established — members — report, recommendations — compensation.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 8.650, 8.900, 21.475, 21.780, 26.600, 26.603, 26.605, 26.607, 26.609, 26.611, 26.614, 32.250, 32.260, 90.101, 105.1006, 105.1010, 105.1012, 162.1000, 162.1060, 166.200, 166.201, 166.203, 166.205, 166.207, 166.209, 166.212, 166.215, 166.218, 166.220, 166.222, 166.225, 166.228, 166.231, 166.233, 166.235, 166.237, 166.240, 166.242, 190.176, 192.350, 192.352, 192.355, 192.735, 192.737, 192.739, 192.742, 192.745, 199.001, 199.003, 199.007, 199.009, 199.010, 199.029, 199.031, 199.037, 199.039, 199.041, 199.043, 199.051, 208.175, 208.195, 208.275, 208.792, 208.955, 210.101, 260.372, 260.705, 260.720, 260.725, 260.735, 286.001, 286.005, 286.200, 286.205, 286.210, 302.136, 304.028, 320.094, 320.205, 324.600, 324.603, 324.606, 324.609, 324.612, 324.615, 324.618, 324.621,

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**8.650. DEVIATIONS FROM STANDARDS, WHEN PERMITTED.** — 1. Deviations from the standards set forth in sections 8.620 and 8.622 may be permitted where conformance to such standards is impractical and where the method, material, and dimension used in lieu thereof does not create a hazard.

2. Permission to deviate from the standards set forth in sections 8.620 and 8.622 may be granted only by the commissioner of administration after consulting with the governor's [committee on employment of the handicapped] **council on disability** established in section [286.200] **37.735**. Application to deviate from the standards may be submitted by the owner of the building only. Applications shall be submitted in such written forms as the commissioner may require.

3. The commissioner shall maintain a codified listing of all applications received. The listing shall indicate the action taken by the commissioner on each application.

**8.900. MEMORIAL FOR WORKERS KILLED OR DISABLED ON THE JOB — FUND ESTABLISHED, INVESTMENT, FUND NOT TO LAPSE INTO GENERAL REVENUE.** — 1. A permanent memorial for workers who were killed on the job in Missouri or who suffered an on-the-job injury that resulted in a permanent disability shall be established and located on the grounds of the state capitol. [The memorial shall be of a design selected by a competition organized by the "Workers Memorial Committee" which is hereby created. The workers memorial committee shall be composed of the members of the board of public buildings, or their designees, two members of the house of representatives, one from each political party, selected by the speaker of the house, and two members of the senate, one from each political party, selected by the president pro tem of the senate. The members of the committee shall serve without compensation but shall be reimbursed for all actual and necessary expenses incurred in the performance of their official duties for the committee.]



2. There is hereby established in the state treasury the "Workers Memorial Fund". Gifts, grants and devises may be deposited in the workers memorial fund. Notwithstanding the provisions of section 33.080, moneys in the fund shall not revert to general revenue. The state treasurer shall invest the moneys from the fund in the same manner as other state funds are invested. Interest accruing to the fund shall be deposited in the fund and shall not be transferred to the general revenue fund.

**37.735. COUNCIL ASSIGNED TO OFFICE OF ADMINISTRATION, MEMBERS, CHAIRPERSON — EXECUTIVE DIRECTOR, FUNDING — APPOINTMENT OF MEMBERS, TERMS, QUALIFICATIONS — MEETINGS. — 1. The "Governor's Council on Disability" is hereby assigned to the office of administration.**

**2. The council shall consist of a chairperson, twenty members, and an executive director.**

**3. The chairperson shall be appointed by the governor with the advice and consent of the senate. The members of the council shall be appointed by the governor. Recruitment and appointment of members to the council shall provide for representation of various ethnic, age, gender, and physical and mental disability groups.**

**4. The funds necessary for the executive director and such other personnel as necessary shall be appropriated through the office of administration. The executive director shall serve under the supervision of the committee chairman. The executive director shall be exempted from the state merit system.**

**5. All members shall be appointed for four-year terms. Vacancies occurring in the membership of the council for any reason shall be filled by appointment by the governor for the unexpired term. Upon expiration of their terms, members of the council shall continue to hold office until the appointment and qualification of their successors. No person shall be appointed for more than two consecutive terms, except that a person appointed to fill a vacancy may serve for two additional successive terms. The governor may remove a member for cause.**

**6. Members of the council shall be chosen to meet the following criteria:**

**(1) The majority of the council shall be comprised of people with disabilities, representing the various disability groups. The remaining positions shall be filled by family members of people with disabilities, persons who represent other disability-related groups, and other advocates. A person considered to have a disability shall meet the federal definition of disability as defined by P.L. 101-336;**

**(2) The council shall include at least one member from each congressional district;**

**(3) Members of the council shall be knowledgeable about disability-related issues and have demonstrated a commitment to full participation of people with disabilities in all aspects of community life.**

**7. The chairperson of the council shall serve without compensation but shall be reimbursed for actual and necessary travel and other expenses incurred in the performance of the duties as chairperson of the council on disability. The members of the council shall serve without compensation but may be reimbursed for their actual and necessary expenses incurred in attending all meetings provided for by sections 37.735 to 37.745.**

**8. The council shall meet at least once each calendar quarter to conduct its business. The executive director shall give notice to each member of the time and place of each meeting of the council at least ten days before the scheduled date of the meeting, and notice of any special meeting shall state the specific matters to be considered in the special meeting which is not a regular quarterly meeting.**

**9. The chairperson, with the advice and consent of the council, shall appoint an executive director who shall serve as a nonvoting member and executive officer of the**

council. The executive director shall serve under the supervision of the chairperson of the council. The executive director shall be a person who is knowledgeable about disability-related issues and has demonstrated a commitment to full participation of people with disabilities in all aspects of community life.

10. The director of each state department shall designate at least one employee who shall act as a liaison with the council.

**37.740. DUTIES OF THE COUNCIL.**— The governor's council on disability shall:

(1) Act in an advisory capacity to all state agencies and have direct input to all divisions of the office of administration on policies and practices which impact people with disabilities. Input shall include policies and practices affecting personnel, purchasing, design and construction of new facilities, facilities management, budget and planning and general services. In the administration of its duties, the governor's council on disability in cooperation with the office of administration shall offer technical assistance to help all departments, divisions and branches of state government comply with applicable state and federal law regarding persons with disabilities;

(2) Work and cooperate with other state commissions, councils or committees pertaining to disabilities and other national, state and local entities to create public policies and encourage system changes which eliminate barriers to people with disabilities;

(3) Advocate for public policies and practices which:

(a) Promote employment of people with disabilities;

(b) Expand opportunities in all aspects of life; and

(c) Promote awareness of and compliance with various federal, state and local laws dealing with disabilities;

(4) Gather input from disability-related organizations and the public on disability-related issues and report the results of this information in council reports to the governor;

(5) Accept grants, private gifts, and bequests, to be used to achieve the purposes of sections 37.735 to 37.745;

(6) Promulgate those bylaws necessary for the efficient operation of the council;

(7) Prepare an annual report to be presented to the governor not later than January first of each year.

**37.745. FUNDING SOURCES.**— The governor's council on disability may receive funds and property by gift, devise, bequest or otherwise and may solicit funds to be used in carrying out the purposes of sections 37.735 to 37.745.

**90.101. NUMBERS OF COMMISSIONERS — VACANCY IN BOARD OF COMMISSIONERS, HOW FILLED.**— 1. Notwithstanding any law to the contrary, the board of commissioners of Tower Grove Park shall have the authority to adjust the size of its membership, provided that any such adjustment shall be approved by a majority vote of the board members.

2. Notwithstanding any law to the contrary, in case of any vacancy occurring in the membership of the board of commissioners of Tower Grove Park from death, resignation, or disqualification to act, the vacancy shall be filled by appointment from the remaining members of the board, or a majority of them, for the balance of the term then vacant, and all vacancies caused by the expiration of the term of office shall be filled by appointment from the judges of the supreme court of the state of Missouri, or a majority of them or if said judges are unable or unwilling to so act, which shall be presumed by their failure to act within thirty days following delivery to the court of a slate of appointees, by the majority vote of the remaining board members.

**105.1006. FUNDS TO BE DEPOSITED IN MISSOURI STATE EMPLOYEES VOLUNTARY LIFE INSURANCE FUND — LAPSE INTO GENERAL REVENUE PROHIBITED.** — All funds withheld from employees of the state of Missouri pursuant to section 105.1005 shall be transferred to the director of revenue for deposit in the state treasury to the credit of the "Missouri State Employees Voluntary Life Insurance Fund", which is hereby created. The Missouri state employees voluntary life insurance fund shall be administered by the [Missouri state employees voluntary life insurance commission] **commissioner of administration**, and the moneys in the fund shall be used solely [by the commission] as provided in sections 105.1000 to 105.1020, including the contracts entered into with employees under section 105.1005. Notwithstanding the provisions of section 33.080 to the contrary, moneys in the Missouri state employees voluntary life insurance fund at the end of any biennium shall not be transferred to the credit of the general revenue fund. The [commission] **commissioner** shall approve any voluntary life insurance agreement entered into by the state and shall oversee the orderly administration of the fund in compliance with sections 105.1000 to 105.1020.

**105.1012. COMMISSION'S DUTIES TO ESTABLISH LIFE INSURANCE PLAN — WITH PAYROLL DEDUCTION BY PARTICIPATING EMPLOYEES — PLAN TO BE BASED ON COMPETITIVE BIDDING — BID TO INCLUDE COST OF ADMINISTRATION.** — 1. [Subject to the approval of the Missouri state employees voluntary life insurance commission,] The office of administration shall establish and administer a voluntary life insurance plan for the employees of the state of Missouri. Participation in such plan shall be by a specific written agreement between such employees and the state which shall provide for the payroll deduction of such amount of compensation as requested by the employee. Participating employees shall authorize that such deferrals be made from their wages for the purpose of participation in such plan.

2. Funds held for the state [by the Missouri state employees voluntary life insurance commission] pursuant to a written payroll deduction agreement between the state and participating employees may be invested in such life insurance contracts as are approved by the [commission] **commissioner of administration**. All such insurance plans or policies to be offered pursuant to this plan shall have been reviewed and selected [by the commission] based on a competitive bidding process as established by such specifications and considerations as are deemed appropriate [by the commission]. The bid shall include the costs of administration incurred by the office of administration in implementing sections 105.1000 to 105.1020, which shall be borne by the successful bidder.

**162.1000. INTERAGENCY COUNCIL ON TRANSITION CREATED, DEFINITIONS, MEMBERS, QUALIFICATIONS, CHAIRPERSON HOW SELECTED — MEETINGS, POWERS AND DUTIES — ANNUAL REPORT, CONTENT.** — 1. As used in this section, the following terms mean:

(1) "Transition", a coordinated set of activities for a student, designed within an outcome oriented process, which promotes movement to integrated employment, including supported employment, postsecondary education, vocational training, continuing and adult education services, independent living and community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include, but not be limited to, instruction, community experiences, the development of employment and other postschool adult living objectives, and when appropriate, acquisition of daily living skills and functional vocational evaluation;

(2) "Youth with disabilities", any person who is found eligible for special education as defined in federal Public Law 101-476, the Individuals with Disabilities Education Act.

2. The individualized education program required for each student enrolled in special education shall include a statement of the needed transition services for students beginning not later

than age sixteen and annually thereafter, and shall include, when appropriate, a statement of interagency responsibility or linkages before the student leaves the school setting.

3. The "Missouri Interagency Council on Transition" is hereby created within the division of special education, and shall be composed of the commissioner of the department of elementary and secondary education, the assistant commissioners of the division of vocational rehabilitation, the division of special education, and the division of vocational and adult education, the director of the department of health and senior services, the director of the division of maternal, child and family health, the director of the department of mental health, the director of the department of social services, the president of the Missouri planning council for developmental disabilities, the chairman of the Missouri [head] **brain** injury advisory council, the president of the advisory council for comprehensive psychiatric services, the president of the Missouri Association for Rehabilitation Facilities, or their designees, a representative of the governor's [committee on employment of persons with disabilities] **council on disability**, and seven professionals and consumer representatives with no less than three parents or primary consumers, to be appointed by the governor from names submitted by any interested agency or organization serving individuals with disabilities. At the first meeting a chair shall be selected from the members to serve a term of two years. The council shall meet at least quarterly, and at such other times at the call of the chair.

4. The Missouri interagency council on transition shall:

(1) Gather and coordinate data on transition services for secondary age youth with disabilities;

(2) Provide information, consultation, and technical assistance to state and local agencies and school districts involved in the delivery of services to youth with disabilities who are in transition from school to work or postsecondary transition programs;

(3) Assist state and local agencies and school districts in establishing interagency agreements to assure the necessary transition from school to work or postsecondary training programs;

(4) Conduct an annual statewide assessment of transition needs and postsecondary school outcomes from information supplied by local education agencies and local interagency transition committees;

(5) Assist regions and local areas in planning interagency in-service training to develop and improve transition services.

5. Members of the Missouri interagency council on transition shall receive no compensation for their services while serving on the council; however, members may receive reimbursement for their actual and necessary expenses incurred in the performance of their duties.

6. Beginning on January 1, 1995, and on or before January first of each successive year, the council shall make a written report to the governor and to the general assembly of its activities for the preceding fiscal year. The council's annual report shall include recommendations for administrative and legislative policies and programs to enhance the delivery of transition services and supports.

**162.1060. TRANSFER CORPORATION, BOARD, POWERS AND DUTIES, FUNDING — TERMINATION OF CORPORATION, FUNDS TO LAPSE TO GENERAL REVENUE — REGIONAL ATTENDANCE ZONES.** — 1. There is hereby established a "Metropolitan Schools Achieving Value in Transfer Corporation", which shall be a public body corporate, for the purpose of implementing an urban voluntary school transfer program within a program area which shall include a city not within a county and any school district located in whole or in part in a county with a population in excess of nine hundred thousand persons which district chooses to participate. The corporation shall be governed by a board of directors consisting of one representative from each school district that participates in the urban voluntary school transfer program selected by the governing body of each such district. The vote of each member of the board shall be weighted proportionately to the percentage of the total of transfer students who attend school in the member's district.

2. (1) The corporation's board of directors shall design and operate an urban voluntary school transfer program for all participating districts. The board shall make provision for transportation of all the students and for payment to school districts for the education of such students. Acceptance of students into the program shall be determined by policies enacted by the corporation's board of directors, provided that first preference for acceptance of students shall be granted to students currently attending a district other than the district of residence pursuant to a voluntary transfer program established pursuant to federal desegregation order, decree or agreement. All provisions of this section shall be subject to a settlement incorporated into a final judgment, provided that the financial provisions of this section shall not be superseded by such settlement.

(2) Each district, other than a metropolitan school district, participating in an urban voluntary school transfer program shall place before voters in the district a proposal to continue participation in the urban voluntary school transfer program at the April election during the sixth year of operation of the program. Unless a majority of district voters voting thereon votes to continue participation in the program, each district, other than a metropolitan school district, shall file a plan, no later than the end of the seventh year of the operation of the program, for phase-out of the district's participation in the program, and such plan shall be provided to the state board of education, the transitional school district and the board of directors of the corporation. Each such plan shall provide for elimination of transfers to the district pursuant to this section no later than the following schedule:

- (a) The ninth year of the program for grades one through three;
- (b) The tenth year of the program for grades four through six;
- (c) The eleventh year of the program for grades seven through nine; and
- (d) The twelfth year of the program for grades ten through twelve.

3. (1) Other provisions of law to the contrary notwithstanding, each student participating in the program shall be considered an eligible pupil of the district of residence for the purpose of distributing state aid, except that students attending school in a metropolitan school district in a program established pursuant to this section shall be considered eligible pupils of the district attended, and provided that the department shall determine the increased state aid eligibility created by including pupils attending school in a program established pursuant to this section as eligible pupils of the district of residence and shall distribute the full amount of such state aid to the metropolitan schools achieving value in transfer corporation and shall not distribute state aid on the basis of such pupils to the district of residence.

(2) For each student participating in the program, the corporation shall receive the total of all state and federal aid that would otherwise be paid to the student's district of residence, including, but not limited to, state aid provided pursuant to section 148.360, section 149.015, and sections 163.031 and 163.087. The corporation shall pay a school district that receives a nonresident student from the funds of the corporation in accordance with the provisions of this section and agreements between the corporation and the participating school districts.

4. (1) In each of the first two fiscal years, the corporation shall also receive a payment of twenty-five million dollars.

(2) For the third year of operation and thereafter, the corporation shall receive transportation state aid, for each student that participates in the program, which shall be in the same amount and on the same basis as would be received by the student's district of residence if the student were attending a school in the attendance zone in the student's district of residence, provided that such reimbursement shall not exceed one hundred fifty-five percent of the statewide average per pupil cost for transportation for the second preceding school year.

(3) Funds received by the corporation pursuant to this subsection may be used for any purpose and need not be expended in the year received.

5. The corporation created herein shall have all powers of a public body corporate, except that it shall have no paid employees. The corporation, by contract with any public entity, school

district, or private entity, may retain the services of a fiscal agent, make provisions for accounting, transportation management, or other assistance that the corporation may need to carry out its functions, except that no contractor or employee of any contractor acting in a policy-making function shall have ever have been a contractor or employee of the voluntary interdistrict coordinating council or any other program established by the federal district court; except that this restriction shall not apply to transportation contractors or their employees. When a school district located in whole or in part in a county with a population in excess of nine hundred thousand persons ceases to participate in the urban public school transfer program, its representative shall be removed from the corporation's board of directors. When none of the students who reside in a school district in a city not within a county opt to participate in the program, the school district's representative shall be removed from the board of directors. When all of the school districts have ended their participation in the program, in accordance with this subsection, the corporation's operations shall cease, and any funds of the corporation remaining shall be paid to the state of Missouri to the credit of the general revenue fund, except such amounts as the commissioner of education shall determine should be paid to particular school districts under the regulations applicable to federal programs or returned to the federal government.

6. All funds received by the corporation shall become funds of the corporation and paid for the purposes set forth in this section and in accordance with agreements entered into between the corporation and participating school districts and other entities, provided that funds received for particular purposes, under federal or state categorical programs benefiting individual students, shall be paid to the district or entity providing services to the students entitled to such services. The proportionate share of federal and state resources generated by students with disabilities, or the staff serving them, shall be paid to the district where the child is attending school, unless the district of residence is required by law to provide such services to the individual students, except that a special school district containing the district where the child is attending school shall be paid for all unreimbursed expenses for special education services provided to students with disabilities. Funds held by the corporation at the close of a fiscal year may be carried over and utilized by the corporation in subsequent fiscal years for the purposes set forth in this section.

7. The board of directors may establish regional attendance zones which map the regions of a district in a city not within a county to corresponding recipient districts within the remainder of the program area. In establishing the regional attendance zones, the board of directors may solicit comments and suggestions from residents of the program area and may adopt one or more regional attendance zones previously established in the program area pursuant to a federal court desegregation order, decree or agreement.

[8. No later than four years following the date an urban public school transfer program is begun pursuant to this section in a program area, the senate and the house of representatives shall establish a "Joint Committee on Urban Voluntary School Transfer Programs", composed of five members of the senate, appointed by the president pro tem of the senate, and five members of the house of representatives, appointed by the speaker of the house. Not more than three members appointed by the president pro tem and not more than three members appointed by the speaker of the house shall be from the same political party.

9. The joint committee may meet as necessary and hold hearings and conduct investigations as it deems advisable. No later than five years following the date an urban voluntary school transfer program is begun pursuant to this section in a program area, the committee shall review and monitor the status of any urban voluntary school transfer program established pursuant to this section and make any recommendations the committee deems necessary to the general assembly regarding such program or programs, which may include proposed changes to the program and recommendations regarding the continuation of the program. The members shall receive no additional compensation, other than reimbursement for their actual and necessary expenses incurred in the performance of their duties. The staff of the committee on legislative research, house

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research, and senate research shall provide necessary clerical, research, fiscal and legal services to the committee, as the committee may request.

10. No later than nine years following the date an urban public school transfer program is begun pursuant to this section in a program area, the joint committee on urban voluntary school transfer programs shall be reestablished in the form specified in subsection 8 of this section and pursuant to the same provisions for reimbursement of expenses and staff support as specified in subsection 9 of this section. No later than ten years following the date an urban voluntary school transfer program is begun pursuant to this section in a program area, the committee shall review and monitor the status of any urban voluntary school transfer program established pursuant to this section and make any recommendations the committee deems necessary to the general assembly regarding such program or programs.]

**190.176. DATA COLLECTION SYSTEM.** — 1. The department shall develop and administer a uniform data collection system on all ambulance runs and injured patients, pursuant to rules promulgated by the department for the purpose of injury etiology, patient care outcome, injury and disease prevention and research purposes. The department shall not require disclosure by hospitals of data elements pursuant to this section unless those data elements are required by a federal agency or were submitted to the department as of January 1, 1998, pursuant to:

- (1) Departmental regulation of trauma centers; or
- (2) The Missouri [head] **brain** and spinal cord injury registry established by sections 192.735 to 192.745; or
- (3) Abstracts of inpatient hospital data; or
- (4) If such data elements are requested by a lawful subpoena or subpoena duces tecum.

2. All information and documents in any civil action, otherwise discoverable, may be obtained from any person or entity providing information pursuant to the provisions of sections 190.001 to 190.245.

**192.735. DEFINITIONS.** — As used in sections 192.735 to 192.745, unless the context clearly indicates otherwise, the following terms shall mean:

- (1) ["Department", the department of health and senior services;
- (2) "Head] **Brain** injury" or "traumatic [head] **brain** injury", a sudden insult or damage to the brain or its coverings, not of a degenerative nature. Such insult or damage may produce an altered state of consciousness and may result in a decrease of one or more of the following: mental, cognitive, behavioral or physical functioning resulting in partial or total disability. Cerebral vascular accidents, aneurisms and congenital deficits are specifically excluded from this definition;
- (2) **"Department", the department of health and senior services;**
- (3) "Spinal cord injury", an injury that occurs as a result of trauma, which may involve spinal vertebral fracture, and where the injured person suffers two or more of the following effects either immediately or within forty-eight hours of injury:
  - (a) Effects on the sensory system including numbness, tingling or loss of sensation in the body or in one or more extremities;
  - (b) Effects on the motor system including weakness or paralysis in one or more extremities;
  - (c) Effects on the visceral system including bowel or bladder dysfunction or hypotension.

**192.737. INFORMATION REPORTING SYSTEM ESTABLISHED — PURPOSE — REPORTS REQUIRED, TO BE FILED BY WHOM, CONTENTS, FORM.** — 1. The department of health and senior services shall establish and maintain an information registry and reporting system for the purpose of data collection and needs assessment of [head] **brain** and spinal cord injured persons in this state.

2. Reports of traumatic [head] **brain** and spinal cord injuries shall be filed with the department by a treating physician or his designee within seven days of identification. The attending physician of any patient with traumatic [head] **brain** or spinal cord injury who is in the hospital shall provide in writing to the chief administrative officer the information required to be reported by this section. The chief administrative officer of the hospital shall then have the duty to submit the required reports.

3. Reporting forms and the manner in which the information is to be reported shall be provided by the department. Such reports shall include, but shall not be limited to, the following information: name, age, and residence of the injured person, the date and cause of the injury, the initial diagnosis and such other information as required by the department.

**192.739. CONFIDENTIALITY OF REPORTS — RELEASE OF REPORTS, REQUIREMENTS. —**

1. All reports and records made pursuant to sections 192.735 to 192.744 and maintained by the department and other appropriate persons, officials and institutions pursuant to sections 192.735 to 192.744 shall be confidential. Information shall not be made available to any individual or institution except to:

- (1) Appropriate staff of the department;
- (2) Any person engaged in a bona fide research project, with the permission of the director of the department, except that no information identifying the subjects of the reports or the reporters shall be made available to researchers unless the department requests and receives consent for such release pursuant to the provisions of this section;
- (3) The Missouri [head] **brain** injury advisory council, except that no information identifying the subjects of the reports or the reporters shall be made available to the council unless consent for release is requested and received pursuant to the provisions of this section. Only information pertaining to [head] **brain** injuries as defined in section 192.735 shall be released to the council.

2. The department shall not reveal the identity of a patient, a reporting physician or hospital, except that the identity of the patient may be released upon written consent of the patient, parent or guardian, the identity of the physician may be released upon written consent of the physician, and the identity of the hospital may be released upon written consent of the hospital.

3. The department shall request consent for release from a patient, a reporting physician or hospital only upon a showing by the applicant for such release that obtaining the identities of certain patients, physicians or hospitals is necessary for his research.

4. The department shall at least annually compile a report of the data accumulated through the reporting system established under section 192.737 and shall submit such data relating to [head] **brain** injuries as defined in section 192.735 and in accordance with confidentiality restrictions established pursuant to sections 192.735 to 192.744 to the director of the Missouri [head] **brain** injury advisory council.

**192.742. PROMULGATION OF RULES, AUTHORITY FOR, CONSULTATION WITH COUNCIL.**

— The department, in consultation with the Missouri [head] **brain** injury advisory council, shall promulgate rules and regulations necessary to carry out the provisions of sections 192.735 to 192.744, pursuant to the provisions of section 192.006 and chapter 536.

**192.745. ADVISORY COUNCIL ESTABLISHED — MEMBERS — TERMS — APPOINTMENT — MEETINGS — EXPENSES — CHAIRMAN — DUTIES. —** 1. The "Missouri [Head] **Brain** Injury Advisory Council" is hereby established [as created by executive order of the governor on March 5, 1985] **in the department of health and senior services**. [The council shall consist of twenty-five members.] The members of the council that are serving on [August 13, 1986] **February 2, 2005**, shall continue [serving on the following basis: the two members of the council who are



members of the house of representatives and appointed by the speaker of the house of representatives shall serve for the remainder of their terms; the two members of the council who are members of the senate appointed by the president pro tempore of the senate shall serve for the remainder of their terms; and the remaining twenty-one members shall determine by lot which seven are to have a one-year term, which seven are to have a two-year term, and which seven are to have a three-year term] **to fulfill their current terms. Through attrition, the council shall decrease from the present twenty-five members to fifteen members.** Thereafter, the successors to each of these [twenty-one] members shall serve a three-year term and until the member's successor is appointed by the governor with the advice and consent of the senate. [In addition, two members who are members of the house of representatives shall be appointed by the speaker of the house and two members who are members of the senate shall be appointed by the president pro tempore of the senate.] The members appointed by the governor shall [represent] **include: four** people with [head] **brain** injuries[,] **or** relatives of persons with [head] **brain** injuries, [proprietary schools as defined in section 173.600,] **and eleven other individuals from** professional groups, health institutions, [or] **community groups, and** private industry [and state agencies which administer programs regarding mental health, education, public health, public safety, insurance, and Medicaid. The appointment of individuals representing state agencies shall be conditioned on their continued employment with their respective agencies]. **In addition to the fifteen council members, individuals representing state agencies with services that impact brain injury survivors and their families shall participate on the council in an ex officio nonvoting capacity. These individuals shall be appointed by the respective agency.**

2. The Missouri [head] **brain** injury advisory council is assigned to the [division of general services in the office of administration] **department of health and senior services.** The [office of administration] **department** shall submit estimates of requirements for appropriations on behalf of the council for the necessary staff and expenses to carry out the duties and responsibilities assigned by the council. [Such staff shall consist of a director and other support staff.]

3. Meetings **of the full council** shall be held at least [every ninety days] **four times a year** or at the call of the council chairperson, who shall be elected by the council. **Subcommittees may meet on an as needed basis.**

4. [Each member shall, subject to appropriations, be reimbursed for reasonable and necessary expenses actually incurred in the performance of the member's official duties.] **Members of the council shall not receive any compensation for their services, but they shall, subject to appropriations, be reimbursed for actual and necessary expenses incurred in the performance of their duties from funds appropriated for this purpose.**

5. The council shall adopt written procedures to govern its activities. [Staff and consultants shall be provided for the council from appropriations requested by the commissioner of the office of administration for such purpose.]

6. The council, **under the direction of the department,** shall make recommendations to the [governor] **department director** for developing and administering a state plan to provide services for [head] **brain** injured persons.

7. No member of the council may participate in or seek to influence a decision or vote of the council if the member would be directly involved with the matter or if the member would derive income from it. A violation of the prohibition contained herein shall be grounds for a person to be removed as a member of the council by the [governor] **department director.**

8. The council shall be advisory and shall:

(1) Promote meetings and programs for the discussion of reducing the debilitating effects of [head] **brain** injuries and disseminate information in cooperation with any other department, agency or entity on the prevention, evaluation, care, treatment and rehabilitation of persons affected by [head] **brain** injuries;

(2) Study and review current prevention, evaluation, care, treatment and rehabilitation technologies and recommend appropriate preparation, training, retraining and distribution of manpower and resources in the provision of services to [head-injured] **brain-injured** persons through private and public residential facilities, day programs and other specialized services;

(3) Recommend [what] specific methods, means and procedures [should be adopted] to improve and upgrade the state's service delivery system for [head-injured] **brain-injured** citizens of this state;

(4) Participate in developing and disseminating criteria and standards which may be required for future funding or licensing of facilities, day programs and other specialized services for [head-injured] **brain-injured** persons in this state;

(5) Report annually to the [commissioner of administration, the governor, and the general assembly] **department director** on its activities, and on the results of its studies and the recommendations of the council.

9. The [office of administration] **department** may accept on behalf of the council federal funds, gifts and donations from individuals, private organizations and foundations, and any other funds that may become available.

**199.001. DEFINITIONS.** — As used in sections 199.001 to 199.055, the following terms mean:

(1) ["Division", the division of injury prevention, head injury rehabilitation and local health services of the department of health and senior services;

(2) "Head] **"Brain injury"**, includes [head] **brain injury**[,] **and** traumatic [head] **brain injury**[, and spinal cord injury] as defined in section 192.735;

(2) **"Department"**, **the department of health and senior services' adult brain injury program**;

(3) "Injury or trauma", any unintentional or intentional damage to the body resulting from acute exposure to thermal, mechanical, electrical, or chemical energy or from the absence of such essentials as heat or oxygen;

(4) "Rehabilitation", a comprehensive series of interventions for physical, medical, cognitive and psychological disabilities designed to restore a person to his maximum functional potential.

**199.003. INJURY PREVENTION, BRAIN INJURY REHABILITATION AND LOCAL HEALTH SERVICES, DEPARTMENT RESPONSIBLE — POWERS — DUTIES.** — 1. [The "Division of Injury Prevention, Head Injury Rehabilitation and Local Health Services" is hereby created and shall be a division of the department of health and senior services.] The [division] **department** shall have the responsibility, **subject to appropriations**, of ensuring that injury prevention and [head] **brain injury** rehabilitation evaluation, [case management] **service coordination**, treatment, rehabilitation, and community support services are accessible, wherever possible. [The division shall have and exercise supervision of division rehabilitation facilities, residential programs and specialized services operated by the division and oversight of facilities, programs and services funded by the division. The division may also plan for prevention, treatment, rehabilitation and care, including hospice, for persons with other diseases as determined by the general assembly by appropriations. The division shall also have responsibilities for the support, development, and coordination of local health services.]

2. The powers, functions and duties of the [division] **department** shall include the following:

(1) [Provision of funds for] **Planning and implementing**, in cooperation with the Missouri [head] **brain injury** advisory council [and implementation of], accessible programs to [rehabilitate and care for] **promote rehabilitation and community reintegration of** persons with [head injuries, injury prevention and research] **brain injuries**;

(2) Provision of technical assistance and training to community-based programs [and assistance and cooperation to programs of political subdivisions designed to assist in planning and implementing quality services] **assisting persons with brain injuries;**

(3) Assurance of [program] quality [in compliance with such appropriate standards for residential facilities, day programs, and specialized programs as may be established by the division] **for brain injury services funded by the department;**

(4) Sponsorship and encouragement of research into the causes, effects, prevention, treatment and rehabilitation of injuries and appropriateness and cost and benefit effectiveness of [head] **brain** injury rehabilitation, residential programs and specialized services;

(5) Provision of public information relating to injury prevention and [head] **brain** injury treatment and rehabilitation;

(6) Cooperation with nonstate governmental agencies and [the] private sector [in establishing, conducting, integrating and coordinating] programs and projects relating to injury prevention and [head] **brain** injury treatment and rehabilitation;

(7) [Review and oversight of those portions of the department's annual budget which are directed for injury prevention and head injury services;

(8) Encouragement of the utilization, support, assistance and dedication of volunteers to assist persons affected by head injuries to be accepted and integrated into normal community activities;

(9) Support, development, and coordination of local health services, which shall include but shall not be limited to:

(a) Professional resources and staff development;

(b) Services assessment and coordination;

(c) Standards development, implementation and quality assurance;

(d) Provision of basic public health services in areas not served by local public health agencies;

(e) Fiscal resources and management;

(f) Technical assistance; and

(g) Assistance with public health problems, emergencies and conditions] **Receiving federal grants and aids for injury prevention and for persons with brain injuries and brain injury rehabilitation under the terms of the grants and aids and administering or paying them out. The director shall approve such applications for federal assistance administered through the department as may be considered advisable in consultation with the Missouri brain injury advisory council;**

(8) **Promulgating rules under the provisions of this section, as necessary to prescribe policies or standards which affect charging and funding of adult brain injury rehabilitation services. The rules applicable to each program or service operated or funded by the department shall be available for public inspection and review at such program or service. The rules and policies shall be compatible with and appropriate to the program mission, population served, size, type of service, and other reasonable classifications;**

(9) **Promulgating reasonable rules relative to the implementation of participant rights described in sections 199.001 to 199.051;**

(10) **Promulgating rules setting forth a reasonable standard means test which shall be applied to all programs and services funded by the department in determining eligibility for such services.**

3. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective

date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2011, shall be invalid and void.

**199.007. BRAIN INJURY ADVISORY COUNCIL, ADVISORY BODY TO DEPARTMENT.** — The Missouri [head] **brain** injury advisory council, created by section 192.745, shall act as the advisory body to the [division and the division] **department and department** director. Any power or function of the [division] **department** requiring planning activities shall be undertaken with the direct input and cooperation of the advisory council. The [division] **department** shall not undertake or duplicate any activity or function of the council under the provisions of section 192.745.

**199.009. CONTRACTS WITH PUBLIC OR PRIVATE VENDORS, ALLOWED — BRAIN INJURY, DEPARTMENT TO SECURE COMPREHENSIVE PROGRAM, CONTENTS.** — 1. The [division] **department** may provide injury prevention, and [head] **brain** injury evaluation, care, treatment, rehabilitation and such related services directly or through contracts from private and public vendors in this state, the quality of the services being equal, appropriate and consistent with professional advice in the least restrictive environment and as close to an individual's home community as possible, with funds appropriated for this purpose.

2. If it is determined through a comprehensive evaluation that a person [is suffering from a head] **has a traumatic brain** injury so as to require the coordination of provision of services, including other state governmental agencies, nongovernmental and the private sector, and if such person, such person's parent, if the person is a minor, or legal guardian, so requests, the [division] **department** shall, within the limits of available resources and subject to relevant federal and state laws, secure a comprehensive program of any necessary services for such person. Such services may include, but need not be limited to, the following:

- (1) Assessment and evaluation;
- (2) [Case management] **Service coordination;**
- (3) Counseling;
- (4) Respite care;
- (5) Recreation;
- (6) Rehabilitation;
- (7) Cognitive retraining;
- (8) Prevocational rehabilitation;
- (9) Residential care;
- (10) Homemaker services;
- (11) Day activity programs;
- (12) Supported living;
- (13) Referral to appropriate services;
- (14) Transportation;
- (15) Supported work, **if provided by the department, shall be directed toward**

**preparation for education or vocational achievement, independent living, and community participation. Long-term needs shall be identified and efforts made to link participants with appropriate resources.**

3. In securing the comprehensive program of services, the [division] **department** shall involve the [patient] **participant**, his **or her** family or his **or her** legal guardian in decisions affecting his **or her** care, rehabilitation, services or referral. The quality of the services being equal, appropriate and consistent with professional advice, services shall be offered in the least restrictive environment and as close to an individual's home community as possible.

**4. In accordance with state and federal law, no service or program operated or funded by the department shall deny admission or other services to any person because of the person's race, sex, creed, marital status, national origin, handicap, or age.**

**199.010. MISSOURI REHABILITATION CENTER, UNIVERSITY OF MISSOURI TO OPERATE, DUTIES FOR BRAIN INJURY — DEPARTMENT TO PROVIDE REHABILITATION AND TUBERCULOSIS TREATMENT.** — The curators of the University of Missouri shall provide for the care of persons needing [head] **brain** injury and other rehabilitation subject to appropriation by the general assembly. The department of health and senior services shall provide for the treatment and commitment of persons having tuberculosis subject to appropriation by the general assembly.

**199.029. RULES AND REGULATIONS, GENERAL OPERATING RULES, DEPARTMENT TO PROMULGATE — PROCEDURE — EXCEPTION.** — 1. The [division] **department** shall promulgate rules under the provisions of this section and chapter 536 as necessary to prescribe policies or standards which affect charging and funding of residential care rehabilitation programs and specialized services for persons with [head] **brain** injuries available to the public. The rules applicable to each facility, program or service operated or funded by the [division] **department** shall be available for public inspection and review at such facility, program or service. These rules shall not apply to facilities, programs or services operated or provided by curators of the University of Missouri.

2. The rules, operating regulations and facility policies shall be compatible with and appropriate to the facility or program mission, population served, size, type of service and other reasonable classifications. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

**199.031. FEDERAL GRANTS, DEPARTMENT MAY RECEIVE, PURPOSES — APPLICATION.** — 1. The [division] **department** may receive federal grants and aids for injury prevention and for persons with [head] **brain** injuries and [head] **brain** injury rehabilitation under the terms of the grants and aids and administer or pay them out subject to the provisions attached.

2. The director shall approve such applications for federal assistance administered through the [division] **department** as may be considered advisable after consultation with the Missouri [head] **brain** injury advisory council.

**199.037. PATIENT RIGHTS, RULES AND REGULATIONS, DIRECTOR TO PROMULGATE — EXCEPTION.** — The director of the [division] **department** shall promulgate reasonable rules relative to the implementation of patient rights described in sections 199.001 to [199.055] **199.051**. These rules shall not apply to facilities, programs or services operated or provided by the curators of the University of Missouri.

**199.039. MEANS TEST, DETERMINATION OF AMOUNT TO CHARGE FOR SERVICES, DIRECTOR TO PROMULGATE RULES AND REGULATIONS.** — The director of the [division] **department** shall promulgate rules setting forth a reasonable standard means test which shall be applied to all facilities, programs and services operated or funded by the [division] **department** in determining the amount to be charged to persons receiving services. Notwithstanding other provisions of sections 199.001 to [199.055] **199.051**, the department shall accept funds from federal reimbursement, third-party reimbursement, private pay or other funding sources.

**199.041. PROBATE COURT TO NOTIFY DEPARTMENT, WHEN — ESTATE SUBJECT TO MEANS TEST, WHEN, PROCEDURE — APPEAL OF DECISION OF DIRECTOR.** — 1. Any probate

division of the circuit court having knowledge of the existence of an estate of a patient receiving services from residential facilities or other programs operated or funded by the [division] **department** shall promptly notify the director of the nature and extent of the estate and the identity of the attorney of record and conservator. The director shall then apply the standard means test contained in the rules of the [division] **department** to determine if the estate shall be charged for services rendered by the [division] **department**.

2. If the director determines that the estate should be charged for the evaluation, care, treatment, rehabilitation or room and board provided or funded by the [division] **department**, and notifies the conservator, the conservator shall pay the charges. If the conservator fails to pay for the charges, after reasonable delay, the head of the [division] **department**, residential facility or day program may discharge the patient.

3. The decision of the director shall be final, and appeal may be made to the circuit court of Cole County or the county where the person responsible for payment resides in the manner provided by chapter 536. The director shall notify the conservator and the supervising court of such failure to pay for services rendered by a facility or program operated or funded by the [division] **department** at least thirty days before the patient is discharged. If the conservator appeals the decision of the director, the patient shall remain in the facility or program pending final disposition of the appeal.

**199.043. DISCRIMINATION PROHIBITED.** — In accordance with state and federal law, no residential facility, day program or specialized service operated or funded by the [division] **department** shall deny admission or other services to any person because of his race, sex, creed, marital status, national origin, handicap or age.

**199.051. INSPECTIONS, DEPARTMENT MAY CONDUCT, WHEN.** — The [division] **department** may inspect any facility or program at any time if a contract has been issued or an application for a contract has been filed.

**208.175. DRUG UTILIZATION REVIEW BOARD ESTABLISHED, MEMBERS, TERMS, COMPENSATION, DUTIES.** — 1. The "Drug Utilization Review Board" is hereby established within the [division of medical services] **MO HealthNet division** and shall be composed of the following health care professionals who shall be appointed by the governor [not later than October 1, 1992,] and whose appointment shall be subject to the advice and consent of the senate:

- (1) Six physicians who shall include:
    - (a) Three physicians who hold the doctor of medicine degree and are active in medical practice;
    - (b) Two physicians who hold the doctor of osteopathy degree and are active in medical practice; and
    - (c) One physician who holds the doctor of medicine or the doctor of osteopathy degree and is active in the practice of psychiatry;
  - (2) Six actively practicing pharmacists who shall include:
    - (a) Three pharmacists who hold bachelor of science degrees in pharmacy and are active as retail or patient care pharmacists;
    - (b) Two pharmacists who hold advanced clinical degrees in pharmacy and are active in the practice of pharmaceutical therapy and clinical pharmaceutical management; and
    - (c) One pharmacist who holds either a bachelor of science degree in pharmacy or an advanced clinical degree in pharmacy and is employed by a pharmaceutical manufacturer of Medicaid-approved formulary drugs; and
  - (3) One certified medical quality assurance registered nurse with an advanced degree.
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2. The membership of the drug utilization review board shall include health care professionals who have recognized knowledge and expertise in one or more of the following:

- (1) The clinically appropriate prescribing of covered outpatient drugs;
- (2) The clinically appropriate dispensing and monitoring of covered outpatient drugs;
- (3) Drug use review, evaluation and intervention;
- (4) Medical quality assurance.

3. A chairperson shall be elected by the board members [at their first meeting, which shall take place not later than November 1, 1992]. The board shall meet at least once every ninety days. A quorum of eight members, including no fewer than three physicians and three pharmacists, shall be required for the board to act in its official capacity.

4. Members appointed pursuant to subsection 1 of this section shall serve four-year terms, except that of the original members, four shall be appointed for a term of two years, four shall be appointed for a term of three years and five shall be appointed for a term of four years. Members may be reappointed.

5. The members of the drug utilization review board or any regional advisory committee shall receive no compensation for their services other than reasonable expenses actually incurred in the performance of their official duties.

6. The drug utilization review board shall, either directly or through contracts between the [division of medical services] **MO HealthNet division** and accredited health care educational institutions, state medical societies or state pharmacist associations or societies or other appropriate organizations, provide for educational outreach programs to educate practitioners on common drug therapy problems with the aim of improving prescribing and dispensing practices.

7. The drug utilization review board shall monitor drug usage and prescribing practices in the Medicaid program. The board shall conduct its activities in accordance with the requirements of subsection (g) of section 4401 of the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508). The board shall publish an educational newsletter to Missouri Medicaid providers as to its considered opinion of the proper usage of the Medicaid formulary. It shall advise providers of inappropriate drug utilization when it deems it appropriate to do so.

**8. The drug utilization review board may provide advice on guidelines, policies, and procedures necessary to establish and maintain the Missouri Rx plan.**

9. Office space and support personnel shall be provided by the division of medical services.

[9.] **10.** Subject to appropriations made specifically for that purpose, up to six regional advisory committees to the drug utilization review board may be appointed. Members of the regional advisory committees shall be physicians and pharmacists appointed by the drug utilization review board. Each such member of a regional advisory committee shall have recognized knowledge and expertise in one or more of the following:

- (1) The clinically appropriate prescribing of covered outpatient drugs;
- (2) The clinically appropriate dispensing and monitoring of covered outpatient drugs;
- (3) Drug use review, evaluation, and intervention; or
- (4) Medical quality assurance.

**208.275. COORDINATING COUNCIL ON SPECIAL TRANSPORTATION, CREATION — MEMBERS, QUALIFICATIONS, APPOINTMENT, TERMS, EXPENSES — STAFF — POWERS — DUTIES. —** 1. As used in this section, unless the context otherwise indicates, the following terms mean:

- (1) "Elderly", any person who is sixty years of age or older;
- (2) "Handicapped", any person having a physical or mental condition, either permanent or temporary, which would substantially impair ability to operate or utilize available transportation.

2. There is hereby created the "Coordinating Council on Special Transportation" within the Missouri department of transportation. The members of the council shall be: [two members of the

senate appointed by the president pro tem, who shall be from different political parties; two members of the house of representatives appointed by the speaker, who shall be from different political parties;] the assistant for transportation of the Missouri department of transportation, or his designee; the assistant commissioner of the department of elementary and secondary education, responsible for special transportation, or his designee; the director of the division of aging of the department of social services, or his designee; the deputy director for mental retardation/developmental disabilities and the deputy director for administration of the department of mental health, or their designees; the executive secretary of the governor's committee on the employment of the handicapped; and seven consumer representatives appointed by the governor by and with the advice and consent of the senate, four of the consumer representatives shall represent the elderly and three shall represent the handicapped. Two of such three members representing handicapped persons shall represent those with physical handicaps. Consumer representatives appointed by the governor shall serve for terms of three years or until a successor is appointed and qualified. Of the members first selected, two shall be selected for a term of three years, two shall be selected for a term of two years, and three shall be selected for a term of one year. In the event of the death or resignation of any member, his successor shall be appointed to serve for the unexpired period of the term for which such member had been appointed.

3. State agency personnel shall serve on the council without additional appropriations or compensation. The consumer representatives shall serve without compensation except for receiving reimbursement for the reasonable and necessary expenses incurred in the performance of their duties on the council from funds appropriated to the department of transportation. [Legislative members shall be reimbursed by their respective appointing bodies out of the contingency fund for such body for necessary expenses incurred in the performance of their duties.]

4. Staff for the council shall be provided by the Missouri department of transportation. The department shall designate a special transportation coordinator who shall have had experience in the area of special transportation, as well as such other staff as needed to enable the council to perform its duties.

5. The council shall meet at least quarterly each year and shall elect from its members a chairman and a vice chairman.

6. The coordinating council on special transportation shall:

- (1) Recommend and periodically review policies for the coordinated planning and delivery of special transportation when appropriate;
- (2) Identify special transportation needs and recommend agency funding allocations and resources to meet these needs when appropriate;
- (3) Identify legal and administrative barriers to effective service delivery;
- (4) Review agency methods for distributing funds within the state and make recommendations when appropriate;
- (5) Review agency funding criteria and make recommendations when appropriate;
- (6) Review area transportation plans and make recommendations for plan format and content;
- (7) Establish measurable objectives for the delivery of transportation services;
- (8) Review annual performance data and make recommendations for improved service delivery, operating procedures or funding when appropriate;
- (9) Review local disputes and conflicts on special transportation and recommend solutions.

**7. The provisions of this section shall expire on December 31, 2014.**

**208.955. COMMITTEE ESTABLISHED, MEMBERS, DUTIES — ISSUANCE OF FINDINGS — SUBCOMMITTEE DESIGNATED, DUTIES, MEMBERS.** — 1. There is hereby established in the department of social services the "MO HealthNet Oversight Committee", which shall be appointed by January 1, 2008, and shall consist of [eighteen] **nineteen** members as follows:



(1) Two members of the house of representatives, one from each party, appointed by the speaker of the house of representatives and the minority floor leader of the house of representatives;

(2) Two members of the Senate, one from each party, appointed by the president pro tem of the senate and the minority floor leader of the senate;

(3) One consumer representative **who has no financial interest in the health care industry and who has not been an employee of the state within the last five years;**

(4) Two primary care physicians, licensed under chapter 334, [recommended by any Missouri organization or association that represents a significant number of physicians licensed in this state,] who care for participants, not from the same geographic area, **chosen in the same manner as described in section 334.120;**

(5) Two physicians, licensed under chapter 334, who care for participants but who are not primary care physicians and are not from the same geographic area, [recommended by any Missouri organization or association that represents a significant number of physicians licensed in this state] **chosen in the same manner as described in section 334.120;**

(6) One representative of the state hospital association;

(7) [One] **Two nonphysician health care [professional] professionals, the first nonphysician health care professional licensed under chapter 335 and the second nonphysician health care professional licensed under chapter 337,** who [cares] **care** for participants[, recommended by the director of the department of insurance, financial institutions and professional registration];

(8) One dentist, who cares for participants[. The dentist shall be recommended by any Missouri organization or association that represents a significant number of dentists licensed in this state], **chosen in the same manner as described in section 332.021;**

(9) Two patient advocates **who have no financial interest in the health care industry and who have not been employees of the state within the last five years;**

(10) One public member **who has no financial interest in the health care industry and who has not been an employee of the state within the last five years;** and

(11) The directors of the department of social services, the department of mental health, the department of health and senior services, or the respective directors' designees, who shall serve as ex-officio members of the committee.

2. The members of the oversight committee, other than the members from the general assembly and ex-officio members, shall be appointed by the governor with the advice and consent of the senate. A chair of the oversight committee shall be selected by the members of the oversight committee. Of the members first appointed to the oversight committee by the governor, eight members shall serve a term of two years, seven members shall serve a term of one year, and thereafter, members shall serve a term of two years. Members shall continue to serve until their successor is duly appointed and qualified. Any vacancy on the oversight committee shall be filled in the same manner as the original appointment. Members shall serve on the oversight committee without compensation but may be reimbursed for their actual and necessary expenses from moneys appropriated to the department of social services for that purpose. The department of social services shall provide technical, actuarial, and administrative support services as required by the oversight committee. The oversight committee shall:

(1) Meet on at least four occasions annually, including at least four before the end of December of the first year the committee is established. Meetings can be held by telephone or video conference at the discretion of the committee;

(2) Review the participant and provider satisfaction reports and the reports of health outcomes, social and behavioral outcomes, use of evidence-based medicine and best practices as required of the health improvement plans and the department of social services under section 208.950;

(3) Review the results from other states of the relative success or failure of various models of health delivery attempted;

(4) Review the results of studies comparing health plans conducted under section 208.950;

(5) Review the data from health risk assessments collected and reported under section 208.950;

(6) Review the results of the public process input collected under section 208.950;

(7) Advise and approve proposed design and implementation proposals for new health improvement plans submitted by the department, as well as make recommendations and suggest modifications when necessary;

(8) Determine how best to analyze and present the data reviewed under section 208.950 so that the health outcomes, participant and provider satisfaction, results from other states, health plan comparisons, financial impact of the various health improvement plans and models of care, study of provider access, and results of public input can be used by consumers, health care providers, and public officials;

(9) Present significant findings of the analysis required in subdivision (8) of this subsection in a report to the general assembly and governor, at least annually, beginning January 1, 2009;

(10) Review the budget forecast issued by the legislative budget office, and the report required under subsection (22) of subsection 1 of section 208.151, and after study:

(a) Consider ways to maximize the federal drawdown of funds;

(b) Study the demographics of the state and of the MO HealthNet population, and how those demographics are changing;

(c) Consider what steps are needed to prepare for the increasing numbers of participants as a result of the baby boom following World War II;

(11) Conduct a study to determine whether an office of inspector general shall be established. Such office would be responsible for oversight, auditing, investigation, and performance review to provide increased accountability, integrity, and oversight of state medical assistance programs, to assist in improving agency and program operations, and to deter and identify fraud, abuse, and illegal acts. The committee shall review the experience of all states that have created a similar office to determine the impact of creating a similar office in this state; and

(12) Perform other tasks as necessary, including but not limited to making recommendations to the division concerning the promulgation of rules and emergency rules so that quality of care, provider availability, and participant satisfaction can be assured.

3. By July 1, 2011, the oversight committee shall issue findings to the general assembly on the success and failure of health improvement plans and shall recommend whether or not any health improvement plans should be discontinued.

4. The oversight committee shall designate a subcommittee devoted to advising the department on the development of a comprehensive entry point system for long-term care that shall:

(1) Offer Missourians an array of choices including community-based, in-home, residential and institutional services;

(2) Provide information and assistance about the array of long-term care services to Missourians;

(3) Create a delivery system that is easy to understand and access through multiple points, which shall include but shall not be limited to providers of services;

(4) Create a delivery system that is efficient, reduces duplication, and streamlines access to multiple funding sources and programs;

(5) Strengthen the long-term care quality assurance and quality improvement system;

(6) Establish a long-term care system that seeks to achieve timely access to and payment for care, foster quality and excellence in service delivery, and promote innovative and cost-effective strategies; and

(7) Study one-stop shopping for seniors as established in section 208.612.

5. The subcommittee shall include the following members:

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- (1) The lieutenant governor or his or her designee, who shall serve as the subcommittee chair;
- (2) One member from a Missouri area agency on aging, designated by the governor;
- (3) One member representing the in-home care profession, designated by the governor;
- (4) One member representing residential care facilities, predominantly serving MO HealthNet participants, designated by the governor;
- (5) One member representing assisted living facilities or continuing care retirement communities, predominantly serving MO HealthNet participants, designated by the governor;
- (6) One member representing skilled nursing facilities, predominantly serving MO HealthNet participants, designated by the governor;
- (7) One member from the office of the state ombudsman for long-term care facility residents, designated by the governor;
- (8) One member representing Missouri centers for independent living, designated by the governor;
- (9) One consumer representative with expertise in services for seniors or [the disabled] **persons with a disability**, designated by the governor;
- (10) One member with expertise in Alzheimer's disease or related dementia;
- (11) One member from a county developmental disability board, designated by the governor;
- (12) One member representing the hospice care profession, designated by the governor;
- (13) One member representing the home health care profession, designated by the governor;
- (14) One member representing the adult day care profession, designated by the governor;
- (15) One member gerontologist, designated by the governor;
- (16) Two members representing the aged, blind, and disabled population, not of the same geographic area or demographic group designated by the governor;
- (17) The directors of the departments of social services, mental health, and health and senior services, or their designees; and
- (18) One member of the house of representatives and one member of the senate serving on the oversight committee, designated by the oversight committee chair.

Members shall serve on the subcommittee without compensation but may be reimbursed for their actual and necessary expenses from moneys appropriated to the department of health and senior services for that purpose. The department of health and senior services shall provide technical and administrative support services as required by the committee.

6. By October 1, 2008, the comprehensive entry point system subcommittee shall submit its report to the governor and general assembly containing recommendations for the implementation of the comprehensive entry point system, offering suggested legislative or administrative proposals deemed necessary by the subcommittee to minimize conflict of interests for successful implementation of the system. Such report shall contain, but not be limited to, recommendations for implementation of the following consistent with the provisions of section 208.950:

- (1) A complete statewide universal information and assistance system that is integrated into the web-based electronic patient health record that can be accessible by phone, in-person, via MO HealthNet providers and via the Internet that connects consumers to services or providers and is used to establish consumers' needs for services. Through the system, consumers shall be able to independently choose from a full range of home, community-based, and facility-based health and social services as well as access appropriate services to meet individual needs and preferences from the provider of the consumer's choice;
- (2) A mechanism for developing a plan of service or care via the web-based electronic patient health record to authorize appropriate services;
- (3) A preadmission screening mechanism for MO HealthNet participants for nursing home care;
- (4) A case management or care coordination system to be available as needed; and
- (5) An electronic system or database to coordinate and monitor the services provided which are integrated into the web-based electronic patient health record.

7. Starting July 1, 2009, and for three years thereafter, the subcommittee shall provide to the governor, lieutenant governor and the general assembly a yearly report that provides an update on progress made by the subcommittee toward implementing the comprehensive entry point system.

8. The provisions of section 23.253 shall not apply to sections 208.950 to 208.955.

**210.101. CHILDREN'S SERVICES COMMISSION ESTABLISHED, MEMBERS, QUALIFICATIONS — MEETINGS OPEN TO PUBLIC, NOTICE — RULES — STAFF — EX OFFICIO MEMBERS.** — 1. There is hereby established the "Missouri Children's Services Commission", which shall be composed of the following members:

(1) The director or [deputy director of the department of labor and industrial relations and the director or deputy director of each state agency, department, division, or other entity which provides services or programs for children, including, but not limited to, the department of mental health, the department of elementary and secondary education, the department of social services, the department of public safety and the department of health and senior services] **the director's designee of the following departments: corrections, elementary and secondary education, higher education, health and senior services, labor and industrial relations, mental health, public safety, and social services;**

(2) One judge of a **family or** juvenile court, who shall be appointed by the chief justice of the supreme court;

(3) [One judge of a family court, who shall be appointed by the chief justice of the supreme court;

(4) Four] **Two** members, [two] **one** from each political party, of the house of representatives, who shall be appointed by the speaker of the house of representatives;

[(5) Four] **(4) Two** members, [two] **one** from each political party, of the senate, who shall be appointed by the president pro tempore of the senate [.]; All members shall serve for as long as they hold the position which made them eligible for appointment to the Missouri children's services commission under this subsection. All members shall serve without compensation but may be reimbursed for all actual and necessary expenses incurred in the performance of their official duties for the commission.

2. All meetings of the Missouri children's services commission shall be open to the public and shall, for all purposes, be deemed open public meetings under the provisions of sections 610.010 to 610.030. The Missouri children's services commission shall meet no less than once every two months[, and shall hold its first meeting no later than sixty days after September 28, 1983]. Notice of all meetings of the commission shall be given to the general assembly in the same manner required for notifying the general public of meetings of the general assembly.

3. The Missouri children's services commission may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers.

4. The commission shall elect from amongst its members a chairman, vice chairman, a secretary-reporter, and such other officers as it deems necessary.

5. The services of the personnel of any agency from which the director or deputy director is a member of the commission shall be made available to the commission at the discretion of such director or deputy director. All meetings of the commission shall be held in the state of Missouri.

6. The officers of the commission may hire an executive director. Funding for the executive director may be provided from the Missouri children's services commission fund or other sources provided by law.

7. The commission, by majority vote, may invite individuals representing local and federal agencies or private organizations and the general public to serve as ex officio members of the commission. Such individuals shall not have a vote in commission business and shall serve without compensation but may be reimbursed for all actual and necessary expenses incurred in the performance of their official duties for the commission.

**210.105. MISSOURI TASK FORCE ON PREMATURITY AND INFANT MORTALITY CREATED — MEMBERS, OFFICERS, EXPENSES — DUTIES — REPORT — EXPIRATION DATE. — 1.** There is hereby created the "Missouri Task Force on Prematurity and Infant Mortality" within the children's services commission to consist of the following eighteen members:

- (1) The following six members of the general assembly:
  - (a) Three members of the house of representatives, with two members to be appointed by the speaker of the house and one member to be appointed by the minority leader of the house;
  - (b) Three members of the senate, with two members to be appointed by the president pro tem of the senate and one member to be appointed by the minority leader of the senate;
- (2) The director of the department of health and senior services, or the director's designee;
- (3) The director of the department of social services, or the director's designee;
- (4) The director of the department of insurance, financial institutions and professional registration, or the director's designee;
- (5) One member representing a not-for-profit organization specializing in prematurity and infant mortality;
- (6) Two members who shall be either a physician or nurse practitioner specializing in obstetrics and gynecology, family medicine, pediatrics or perinatology;
- (7) Two consumer representatives who are parents of individuals born prematurely, including one parent of an individual under the age of eighteen;
- (8) Two members representing insurance providers in the state;
- (9) One small business advocate; and
- (10) One member of the small business regulatory fairness board.

Members of the task force, other than the legislative members and directors of state agencies, shall be appointed by the governor with the advice and consent of the senate by September 15, 2011.

2. A majority of a quorum from among the task force membership shall elect a chair and vice-chair of the task force.

3. A majority vote of a quorum of the task force is required for any action.

4. The chairperson of the children's services commission shall convene the initial meeting of the task force by no later than October 15, 2011. The task force shall meet at least quarterly; except that the task force shall meet at least twice prior to the end of 2011. Meetings may be held by telephone or video conference at the discretion of the chair.

5. Members shall serve on the commission without compensation, but may, subject to appropriation, be reimbursed for actual and necessary expenses incurred in the performance of their official duties as members of the task force.

6. The goal of the task force is to seek evidence-based and cost-effective approaches to reduce Missouri's preterm birth and infant mortality rates.

7. The task force shall:

- (1) Submit findings to the general assembly;
- (2) Review appropriate and relevant evidence-based research regarding the causes and effects of prematurity and birth defects in Missouri;
- (3) Examine existing public and private entities currently associated with the prevention and treatment of prematurity and infant mortality in Missouri;
- (4) Develop cost-effective strategies to reduce prematurity and infant mortality; and
- (5) Issue findings and propose to the appropriate public and private organizations goals, objectives, strategies, and tactics designed to reduce prematurity and infant

mortality in Missouri, including recommendations on public policy for consideration during the next appropriate session of the general assembly.

**8. On or before December 31, 2013, the task force shall submit a report on their findings to the governor and general assembly. The report shall include any dissenting opinions in addition to any majority opinions.**

**9. The task force shall expire on January 1, 2015, or upon submission of a report under subsection 8 of this section, whichever is earlier.**

**260.372. POWERS AND DUTIES OF COMMISSION.** — 1. The Missouri hazardous waste management commission within the Missouri department of natural resources is hereby given the authority to aid in the promotion of hazardous waste recycling, reuse, or reduction by entering into contracts, subject to appropriations, for the development and implementation of projects dealing with said uses of hazardous wastes or the purchase and development of machinery, equipment, appliances, devices, and supplies solely required to develop and operate hazardous waste recycling, reuse, and reduction projects.

2. The hazardous waste management commission within the Missouri department of natural resources shall promulgate rules and regulations to establish or participate in one or more regional waste exchange clearing houses where generators of wastes may list those wastes that have market value or other use.

**3. The hazardous waste management commission within the Missouri department of natural resources shall act in an advisory capacity to Missouri's member on the midwest low-level radioactive waste compact commission, review activities of the midwest low-level radioactive waste compact commission and midwest interstate radioactive waste compact states, and present recommendations in writing to the governor and the general assembly as requested or as necessary to insure adequate exchange of information.**

**260.705. DEFINITIONS.** — Unless the context clearly requires otherwise, the following words and phrases mean:

(1) ["Advisory committee", the low-level radioactive waste compact advisory committee;

(2)] "Care", the continued observation of a facility after closure for the purposes of detecting a need for maintenance, insuring environmental safety, and determining compliance with applicable licensure and regulatory requirements and including the correction of problems which are detected as a result of that observation;

[(3)] (2) "Clean-up", all actions necessary to contain, collect, control, identify, analyze, treat, disperse, remove, or dispose of low-level radioactive waste;

[(4)] (3) "Closure", measures which must be taken by a facility owner or operator when he determines that the facility shall no longer accept low-level radioactive waste;

[(5)] (4) "Commission", the midwest interstate low-level radioactive waste commission;

[(6)] (5) "Decommissioning", the measures taken at the end of a facility's operating life to assure the continued protection of the public from any residual radioactivity or other potential hazards present at a facility;

[(7)] (6) "Facility", a parcel of land or site, together with the structures, equipment and improvements on or appurtenant to the land or site, which is used or is being developed for the treatment, storage or disposal of low-level radioactive waste;

[(8)] (7) "Host state", any state which is designated by the commission to host a regional facility;

[(9)] (8) "Low-level radioactive waste" or "waste", radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel or by-product material as defined in Section 11(e)(2) of the Atomic Energy Act of 1954;

[(10)] (9) "Midwest low-level radioactive waste compact", the midwest interstate compact on low-level radioactive waste as enacted by the Missouri general assembly;

[(11)] (10) "Radioactive release", the emission, discharge, spillage, leakage, pumping, pouring, emptying or dumping of low-level radioactive waste into the biosphere which exceeds state or federal standards;

[(12)] (11) "Region", the area of the party states to the midwest low-level radioactive waste compact;

[(13)] (12) "Regional facility", a facility which is located within the region and which is established by a party state pursuant to designation of that state as a host state by the commission; and

[(14)] (13) "Site", the geographic location of a facility.

**260.720. COMPACT COMMISSIONER AND ALTERNATE, APPOINTMENT, COMPENSATION, WHEN, EXPENSES, DUTIES.** — 1. The governor shall appoint one member and one alternate member to represent Missouri's interests on the midwest low-level radioactive waste compact commission. Such appointment shall be with the advice and consent of the senate, as provided in section 51 of article IV of the Constitution of Missouri. The state's member on the commission, or the alternate, shall be entitled to reimbursement for expenses necessarily incurred in the discharge of his official duties plus, if not an employee of the state, fifty dollars for each day devoted to the affairs of the commission.

2. Missouri's member on the commission shall [also serve on the advisory committee created by section 260.725, and] report activities of the commission to the [advisory committee] **hazardous waste management commission**, governor and general assembly as requested.

**260.735. DESIGNATION AS HOST STATE, GOVERNOR'S DUTY — APPROVAL BY GENERAL ASSEMBLY REQUIRED, EXCEPTION.** — 1. In the event Missouri is designated by the commission to be a host state for a regional low-level radioactive waste disposal facility, the director of the department of natural resources shall, within seven days, report to the governor, the legislature and the [advisory committee] **hazardous waste management commission** with recommendations for further action.

2. If Missouri is designated as the host state for a regional disposal facility, the governor shall provide notification of withdrawal, pursuant to Article VIII(i) of the Midwest Interstate Low-Level Radioactive Waste Compact, unless that designation is approved by the general assembly by a concurrent resolution; provided however, that if the general assembly, having had the opportunity to consider the issue of whether or not to remain in the compact, for a period of not less than sixty days within the ninety-day period immediately following such designation, fails to render a concurrent resolution approving such designation or a concurrent resolution calling for Missouri to withdraw from the compact, the governor need not provide such notification of withdrawal.

**286.001. DEFINITIONS.** — As used in this chapter, unless the context clearly states otherwise, the following terms mean:

(1) "Commission", the labor and industrial relations commission;

(2) ["Council", the governor's council on disability;

(3)] "Department", the department of labor and industrial relations;

[(4)] (3) "Director", the director of the department of labor and industrial relations;

[(5)] (4) "Division", the divisions of employment security, labor standards and workers' compensation; and

[(6)] (5) "Division heads", the division directors for each of the divisions.

**286.005. CREATION OF DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS, GENERAL POWERS AND DUTIES — COMMISSION CREATED, COMPENSATION — DIRECTOR'S APPOINTMENT.** — 1. There is hereby created a "Department of Labor and Industrial Relations" to be headed by a labor and industrial relations commission as provided by section 49, article IV, Constitution of Missouri. All the powers, duties and functions of the industrial commission are transferred by type I transfer to the labor and industrial relations commission and the industrial commission is abolished. The commission shall nominate and the governor shall appoint, with the advice and consent of the senate, the director of the department to be the chief administrative officer of the department. Members of the industrial commission on May 2, 1974, shall become members of the commission and the terms of the commission members shall be the same as provided by law for the industrial commission. Individuals appointed as members of the industrial commission shall serve the remainder of the term to which they were appointed as members of the commission. The members of the commission shall receive an annual salary of seventy-two thousand seven hundred thirty-five dollars plus any salary adjustment provided pursuant to section 105.005 payable out of the state treasury. The board of rehabilitation is abolished as hereinafter set out and on May 2, 1974, no compensation shall be paid to any person as a member of the board of rehabilitation, other provisions of the law notwithstanding. The director of the department shall appoint other division heads in the department. For the purposes of subsections 6, 7, 8 and 9 of section 1 of the reorganization act of 1974, the director of the department shall be construed as the head of the department of labor and industrial relations.

2. All powers, duties, and functions vested by law in the division of employment security, chapter 288, and others, are transferred by type II transfer to the department.

3. All powers, duties, and functions vested by law in the division of workers' compensation, chapter 287, and others, are transferred by type II transfer to the department.

4. All the powers, duties, and functions of the board of rehabilitation, chapter 287, and others, are transferred by type I transfer to the division of workers' compensation of the department and the board of rehabilitation is abolished.

5. All powers, duties and functions vested by law in the division of industrial inspections and the division of mine inspections, chapters 286, 290, 291, 292, 293, 294 and 444, which were previously transferred by type I transfer to the inspection section of the department, are transferred to the division of labor standards of the department. Employees of the division performing duties related to the mine safety and health act and the occupational safety health act shall be selected in accord with chapter 36.

6. All the powers, duties, and functions vested by law in the state board of mediation under chapter 295, and others, are transferred by type II transfer to the department.

7. All employees of the division of employment security shall be selected in accord with chapter 36.

8. The Missouri commission on human rights, and all the authority, powers, duties, functions, records, personnel, property, matters pending and other pertinent vestiges thereof vested in the Missouri commission on human rights under chapters 213, 296, 314, and others, are transferred by type III transfer to the department. Members of the Missouri commission on human rights shall be nominated by the director for appointment by the governor, by and with the advice and consent of the senate.

[9. The department shall act as the administrative entity for the governor's council on disability. The federal and state funds necessary for the administration and implementation of the programs and services provided by the governor's council on disability shall be appropriated through the department.]

**304.028. BRAIN INJURY FUND CREATED, MONEYS IN FUND, USES — SURCHARGE IMPOSED, WHEN.** — 1. There is hereby created in the state treasury for use by the [Missouri Head Injury Advisory Council] **department of health and senior services** a fund to be known as the



"[Head] **Brain Injury Fund**". All judgments collected pursuant to this section, federal grants, private donations and any other moneys designated for the [head] **brain** injury fund shall be deposited in the fund. Moneys deposited in the fund shall, upon appropriation by the general assembly to the [office of administration] **department of health and senior services**, be received and expended by the [council] **department** for the purpose of transition and integration of medical, social and educational services or activities for purposes of outreach and [short-term] supports to enable individuals with traumatic [head] **brain** injury and their families to live in the community[, including counseling and mentoring the families]. Notwithstanding the provisions of section 33.080 to the contrary, any unexpended balance in the [head] **brain** injury fund at the end of any biennium shall not be transferred to the general revenue fund.

2. In all criminal cases including violations of any county ordinance or any violation of criminal or traffic laws of this state, including an infraction, there shall be assessed as costs a surcharge in the amount of two dollars. No such surcharge shall be collected in any proceeding involving a violation of an ordinance or state law when the proceeding or defendant has been dismissed by the court or when costs are to be paid by the state, county or municipality.

3. Such surcharge shall be collected and distributed by the clerk of the court as provided in sections 488.010 to 488.020. The surcharge collected pursuant to this section shall be paid to the state treasury to the credit of the [head] **brain** injury fund established in this section.

**320.094. FIRE EDUCATION FUND CREATED, ANNUAL TRANSFERS — TREASURER TO ADMINISTER FUND — TRANSFER FROM GENERAL REVENUE — FIRE EDUCATION TRUST FUND ESTABLISHED, ADMINISTRATION — APPROPRIATION TO DIVISION OF FIRE SAFETY — FIRE EDUCATION/ADVISORY COMMISSION ESTABLISHED, MEMBERS, TERMS, COMPENSATION, MEETINGS, DUTIES.** — 1. The state treasurer shall annually transfer an amount prescribed in subsection 2 of this section out of the state revenues derived from premium taxes levied on insurance companies pursuant to sections 148.310 to 148.461 which are deposited by the director of revenue in the general revenue fund pursuant to section 148.330 in a fund hereby created in the state treasury, to be known as the "Fire Education Fund". Any interest earned from investment of moneys in the fund, and all moneys received from gifts, grants, or other moneys appropriated by the general assembly, shall be credited to the fund. The state treasurer shall administer the fund, and the moneys in such fund shall be used solely as prescribed in this section. Notwithstanding the provisions of section 33.080 to the contrary, moneys in the fire education fund at the end of any biennium shall not be transferred to the credit of the general revenue fund.

2. Beginning July 1, 1998, three percent of the amount of premium taxes collected in the immediately preceding fiscal year pursuant to sections 148.310 to 148.461 which are deposited in the general revenue fund that exceeds the amount of premium taxes which were deposited in the general revenue fund in the 1997 fiscal year shall be transferred from the general revenue fund to the credit of the fire education fund. At the end of each fiscal year, the commissioner of administration shall determine the amount transferred to the credit of the fire education fund in each fiscal year by computing the premium taxes deposited in the general revenue fund in the prior fiscal year and comparing such amount to the amount of premium taxes deposited in the general revenue fund in the 1997 fiscal year. An amount equal to three percent of the increase computed pursuant to this section shall be transferred by the state treasurer to the credit of the fire education fund; however, such transfer in any fiscal year shall not exceed one million five hundred thousand dollars.

3. There is hereby established a special trust fund, to be known as the "Missouri Fire Education Trust Fund", which shall consist of all moneys collected per subsection 2 of this section transferred to the fund from the fire education fund pursuant to this subsection, any earnings resulting from the investment of moneys in the fund, and all moneys received from gifts, grants, or other moneys appropriated by the general assembly. Each fiscal year, an amount equal to forty

percent of the moneys transferred to the fire education fund collected pursuant to subsection 2 of this section shall be transferred by the state treasurer to the credit of the Missouri fire education trust fund. The fund shall be administered by [a board of trustees, consisting of the state treasurer, two members of the senate appointed by the president pro tem of the senate, two members of the house of representatives appointed by the speaker of the house, and two members appointed by the governor with the advice and consent of the senate. Any member appointed due to such person's membership in the senate or house of representatives shall serve only as long as such person holds the office referenced in this section. The state treasurer shall invest moneys in the fund in a manner as provided by law] **the Missouri fire safety education/advisory commission.** Subject to appropriations, moneys in the fund shall be used solely for the purposes described in this section[, but such appropriations shall be made only if the board recommends to the general assembly that such moneys are needed in that fiscal year to adequately fund the activities described in this section]. Moneys shall accumulate in the trust fund until the earnings from investment of moneys in the fund can adequately support the activities described in this section, as determined by the [board] **commission.** [At such time, the board may recommend that the general assembly adjust or eliminate the funding mechanism described in this section.] Notwithstanding the provisions of section 33.080 to the contrary, moneys in the Missouri fire education trust fund at the end of any biennium shall not be transferred to the credit of the general revenue fund.

4. The moneys in the fire education fund[, after any distribution pursuant to subsection 3 of this section.] shall be appropriated to the division of fire safety to coordinate education needs in cooperation with community colleges, colleges, regional training facilities, fire and emergency services training entities and universities of this state and shall provide training and continuing education to firefighters in this state relating to fire department operations and the personal safety of firefighters while performing fire department activities. Programs and activities funded under this subsection [must] **shall** be approved by the Missouri fire **safety** education **advisory** commission established in subsection 5 of this section. These funds shall primarily be used to provide field education throughout the state, with not more than two percent of funds under this subsection expended on administrative costs.

5. There is established the "Missouri Fire **Safety** Education/**Advisory** Commission", to be domiciled in the division of fire safety within the department of public safety. The commission shall be composed of [five] **nine** members appointed by the governor with the advice and consent of the senate, consisting of [one firefighter] **two firefighters, with one** serving as a volunteer of a [volunteer fire protection association.] **recognized fire department and one serving as a** full-time firefighter employed by a recognized fire department [or fire protection district, one firefighter training officer] , **two members shall be fire service training officers, one member shall be a person with expertise in fire investigation, one member shall be an insurer licensed to provide insurance coverage for losses due to fire, one member who provides fire safety appliances or equipment,** one [person] **member who is** serving as the chief of a **recognized** volunteer fire [protection association] **department,** and one **member serving as the full-time** chief [fire officer from] **of** a recognized **paid** fire department [or fire protection district]. No more than [three] **five** members appointed by the governor shall be of the same political party. The terms of office for the members appointed by the governor shall be four years and until their successors are selected and qualified, except that, of those first appointed, two shall have a term of four years, two shall have a term of three years and one shall have a term of two years. There is no limitation on the number of terms an appointed member may serve. The governor may appoint a member for the remaining portion of the unexpired term created by a vacancy. The governor may remove any appointed member for cause. The members shall at their initial meeting select a chair. All members of the commission shall serve without compensation for their duties, but shall be reimbursed for necessary travel and other expenses incurred in the performance of their official duties. The commission shall meet at least quarterly at the call of the chair and shall review and

determine appropriate programs and activities for which funds may be expended under subsection 4 of this section.

**320.205. FIRE MARSHAL, APPOINTMENT, QUALIFICATIONS.** — [1.] The governor, with the advice and consent of the senate, shall appoint a full-time state fire marshal, who shall be the head of the division of fire safety. The state fire marshal shall administer and enforce the provisions of sections 320.200 to 320.270. The state fire marshal shall be a citizen of the United States, shall be a person of good moral character, and a resident taxpayer of Missouri at the time of his appointment. The state fire marshal must have had a minimum of ten years' experience in some phase of fire protection, fire prevention, or fire investigation, which may include experience with any state, municipal, military, or industrial fire protection agency. [He] **The state fire marshal** shall possess administrative ability and experience [and] , be able to obtain facts in connection with the duties of [his] **the** office by field investigations, and **be able** to accurately report [his] findings.

[2. There is hereby established within the department of public safety the "Missouri Fire Safety Advisory Board", which shall be composed of six members appointed by the governor, by and with the advice and consent of the senate, from a list of qualified candidates submitted to the governor by the director of the department of public safety. It shall be the duty of the Missouri fire safety advisory board to advise the fire marshal on all matters pertaining to the responsibilities of the fire marshal and the division. All members of the Missouri fire safety advisory board shall be qualified voters of Missouri at the time of their appointment, shall receive no compensation for their services, and shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties. Of the members appointed to the Missouri fire safety advisory board, one shall be a chief of a fire department located within this state, one shall be a firefighter, one shall be a person with expertise in the investigation of arson, one shall be an instructor in a firefighting training program, one shall be a person who provides fire safety appliances and equipment, and one shall be an insurer duly licensed to provide insurance coverage for losses due to fire.]

**324.1100. DEFINITIONS.** — As used in sections 324.1100 to 324.1148, the following terms mean:

- (1) "Board", the board of private investigator **and private fire investigator** examiners established in section 324.1102;
- (2) "Client", any person who engages the services of a private investigator **or a private fire investigator**;
- (3) "Department", the department of insurance, financial institutions and professional registration;
- (4) "Director", the director of the division of professional registration;
- (5) "Division", the division of professional registration;
- (6) **"Insurance adjuster", any person who receives any consideration, either directly or indirectly, for adjusting in the disposal of any claim under or in connection with a policy of insurance or engaging in soliciting insurance adjustment business;**
- (7) "Law enforcement officer", a law enforcement officer as defined in section 556.061;
- [ (7) ] (8) "Organization", a corporation, trust, estate, partnership, cooperative, or association;
- [ (8) ] (9) "Person", an individual or organization;
- [ (9) ] (10) **"Principal place of business", the place where the licensee maintains a permanent office, which may be a residence or business address;**
- (11) **"Private fire investigation", the furnishing of, making of, or agreeing to make any investigation of a fire to determine the origin or cause of such fire, or responsibility for such fire;**

(12) "Private fire investigator", any person who receives any consideration, either directly or indirectly, for engaging in private fire investigation;

(13) "Private fire investigator agency", a person or firm that employs any person to engage in private fire investigations;

(14) "Private investigator", any person who receives any consideration, either directly or indirectly, for engaging in the private investigator business;

[(10)] (15) "Private investigator agency", a person who regularly employs any other person, other than an organization, to engage in the private investigator business;

[(11)] (16) "Private investigator business", the furnishing of, making of, or agreeing to make, any investigation for the purpose of obtaining information pertaining to:

(a) Crimes or wrongs done or threatened against the United States or any state or territory of the United States;

(b) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person;

(c) The location, disposition, or recovery of lost or stolen property;

(d) Securing evidence to be used before any court, board, officer, or investigating committee;

(e) Sale of personal identification information to the public; or

(f) The cause of responsibility for libel, losses, accident, or damage or injury to persons or property or protection of life or property.

**324.1102. BOARD CREATED, DUTIES, MEMBERS, QUALIFICATIONS, TERMS — FUND CREATED, USE OF MONEYS. — 1.** The "Board of Private Investigator and Private Fire Investigator Examiners" is hereby created within the division of professional registration. The board shall be a body corporate and may sue and be sued. **The board shall guide, advise, and make recommendations to the division and fulfill all other responsibilities designated by sections 324.1100 to 324.1148. The duties and responsibilities of the board with regard to private fire investigators shall not take full force and effect until such time as the governor appoints the fire investigator members and the appointments are confirmed by the senate. Members serving on the board of private investigator examiners on August 28, 2011, shall continue to serve on the board, fulfill the term they were previously appointed for, and be eligible for reappointment.**

**2.** Upon appointment by the governor and confirmation by the senate of the private fire investigator members, the board of private investigator examiners and the board of licensed private fire investigator examiners are abolished and their duties and responsibilities shall merge into the board of private investigator and private fire investigator examiners as established pursuant to this section. The board shall be a continuance of and shall carry out the powers, duties, and functions of the board of private investigator examiners and the board of licensed private fire investigator examiners.

**3.** Every act performed in the exercise of such powers, duties, and authorities by or under the authority of the board of private investigator and private fire investigator examiners shall be deemed to have the same force and effect as if performed by the board of private investigator examiners or the board of licensed private fire investigator examiners.

**4.** All rules and regulations of the board of private investigator examiners shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the board of private investigator and private fire investigator examiners until revised, amended, or repealed by the board. The board shall review such rules and regulations and shall adopt new rules and regulations as required for the administration of sections 324.1100 to 324.1148.

5. Any person licensed by the board of private investigator examiners prior to the appointment by the governor and confirmation by the senate of the private fire investigator members of the board shall be considered licensed by the board.

6. The board shall be composed of [five] **seven** members,[including] **three members who have been actively engaged in the private investigator business for the previous five years, two members who have been actively engaged in private fire investigation for the previous five years, and** two public members, appointed by the governor with the advice and consent of the senate. [Except for the public members.] Each member of the board shall be a citizen of the United States, a resident of Missouri for at least one year, **and** a registered voter[, at least thirty years of age, and shall have been actively engaged in the private investigator business for the previous five years]. No more than one private investigator **or fire investigator** board member may be employed by, or affiliated with, the same private investigator agency **or fire investigator agency**. The initial [private] **fire** investigator board members shall not be required to be licensed but shall obtain a license within one hundred eighty days after the effective date of the rules [promulgated under sections 324.1100 to 324.1148] regarding **the licensure of private fire investigators**. The public members shall each be [a citizen of the United States, a resident of Missouri, a registered voter and] a person who is not and never was a member of any profession licensed or regulated under sections 324.1100 to 324.1148 or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by sections 324.1100 to 324.1148, or an activity or organization directly related to any profession licensed or regulated under sections 324.1100 to 324.1148. [The duties of the public members shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.]

[3.] 7. The members shall be appointed for terms of five years, except [those] **of the first two members** appointed **who are fire investigators**, [in which case two members, who shall be private investigators,] **one member** shall be appointed for [terms] **a term** of [four] **five** years[, two members] **and one member** shall be appointed for [terms] **a term** of three years[, and one member shall be appointed for a one-year term]. Any vacancy on the board shall be filled for the unexpired term of the member [and in the manner as the first appointment].

[4.] 8. The members of the board may receive compensation, as determined by the director for their services, if appropriate, and shall be reimbursed for actual and necessary expenses incurred in performing their official duties on the board.

[5. There is hereby created in the state treasury]

9. **All money held in the board of private investigator examiners fund shall be transferred to the "Board of Private Investigator and Private Fire Investigator Examiners Fund" which is hereby created.** The "Board of Private Investigator **and Private Fire Investigator** Examiners Fund"[, which] shall consist of money collected under sections 324.1100 to 324.1148. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with the provisions of sections 30.170 and 30.180. Upon appropriation, money in the fund shall be used solely for the administration of sections 324.1100 to 324.1148. The provisions of section 33.080 to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

**324.1103. DUTIES OF DIVISION.** — For the purposes of sections 324.1100 to 324.1148, the division shall:

- (1) Employ board personnel, within the limits of the appropriations for that purpose as established in sections 324.1100 to 324.1148;
- (2) Exercise all administrative functions;
- (3) Deposit all fees collected under sections 324.1100 to 324.1148 by transmitting such funds to the department of revenue for deposit in the state treasury to the credit of the board of private investigator **and private fire investigator** examiners fund.

**324.1104. PROHIBITED ACTS.** — Unless expressly exempted from the provisions of sections 324.1100 to 324.1148:

- (1) It shall be unlawful for any person to engage in the private investigator business **or carry out a private fire investigation** in this state unless such person is licensed as a private investigator **or private fire investigator** under sections 324.1100 to 324.1148;
- (2) It shall be unlawful for any person to engage in business in this state as a private investigator agency **or private fire investigator agency** unless such person is licensed under sections 324.1100 to 324.1148.

**324.1106. PERSONS DEEMED NOT TO BE ENGAGING IN PRIVATE INVESTIGATION BUSINESS.** — The following persons shall not be deemed to be engaging in the private investigator business:

- (1) A person employed exclusively and regularly by one employer in connection only with the affairs of such employer and where there exists an employer-employee relationship;
  - (2) Any officer or employee of the United States, or of this state or a political subdivision thereof while engaged in the performance of the officer's or employee's official duties;
  - (3) Any employee, agent, or independent contractor employed by any government agency, division, or department of the state whose work relationship is established by a written contract while working within the scope of employment established under such contract;
  - (4) An attorney performing duties as an attorney, or an attorney's paralegal or employee retained by such attorney assisting in the performance of such duties or investigation on behalf of such attorney;
  - (5) A certified public accountant performing duties as a certified public accountant who holds an active license issued by any state and the employees of such certified public accountant or certified public accounting firm assisting in the performance of duties or investigation on behalf of such certified public accountant or certified public accounting firm;
  - (6) A collection agency or an employee thereof while acting within the scope of employment, while making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or a debtor's property where the contract with an assignor creditor is for the collection of claims owed or due, or asserted to be owed or due, or the equivalent thereof;
  - (7) Insurers and insurance producers licensed by the state, performing duties in connection with insurance transacted by them;
  - (8) Any bank subject to the jurisdiction of the director of the division of finance of the state of Missouri or the comptroller of currency of the United States;
  - (9) An insurance adjuster. [For the purposes of sections 324.1100 to 324.1148, an "insurance adjuster" means any person who receives any consideration, either directly or indirectly, for adjusting in the disposal of any claim under or in connection with a policy of insurance or engaging in soliciting insurance adjustment business];
  - (10) Any private fire investigator whose primary purpose of employment is the determination of the origin, nature, cause, or calculation of losses relevant to a fire;
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(11) Employees of an organization, whether for-profit or not-for-profit, or its affiliate or subsidiary, whether for-profit or not-for-profit, whose investigatory activities are limited to making and processing requests for criminal history records and other background information from state, federal, or local databases, including requests for employee background check information under section 660.317;

(12) Any real estate broker, real estate salesperson, or real estate appraiser acting within the scope of his or her license;

(13) Expert witnesses who have been certified or accredited by a national or state association associated with the expert's scope of expertise;

(14) Any person who does not hold themselves out to the public as a private investigator and is exclusively employed by or under exclusive contract with a state agency or political subdivision;

(15) Any person performing duties or activities relating to serving legal process when such person's duties or activities are incidental to the serving of legal process; or

(16) A consumer reporting agency as defined in 15 U.S.C. Section 1681a and its contract and salaried employees.

**324.1107. PRIVATE FIRE INVESTIGATION, DEEMED NOT ENGAGING IN, WHEN. — The following persons or organizations shall not be deemed to be engaging in private fire investigation:**

(1) Any officer or employee of the United States, this state, or a political subdivision of this state, or an entity organized under section 320.300 while engaged in the performance of the officer's or employee's official duties;

(2) An attorney performing duties as an attorney;

(3) An investigator who is an employee of an insurance company;

(4) Insurers and insurance producers licensed by the state, performing duties in connection with insurance transacted by them;

(5) An insurance adjuster;

(6) An investigator employed by and under the supervision of a licensed attorney while acting within the scope of employment who does not represent himself or herself to be a licensed private fire investigator; or

(7) An individual certified by the division of fire safety as a fire instructor while providing instruction, except if the individual conducts an on-site investigation within the course of instruction.

**324.1108. APPLICATION FOR LICENSURE, CONTENTS — QUALIFICATIONS. — 1.** Every person desiring to be licensed in this state as a private investigator [or], private investigator agency, **private fire investigator, or private fire investigator agency** shall make application therefor to the board [of private investigator examiner]. An application for a license under the provisions of sections 324.1100 to 324.1148 shall be on a form prescribed by the board [of private investigator examiners] and accompanied by the required application fee. An application shall be verified and shall include:

(1) The full name and business address of the applicant;

(2) The name under which the applicant intends to conduct business;

(3) A statement as to the general nature of the business in which the applicant intends to engage;

(4) A statement as to the classification or classifications under which the applicant desires to be qualified;

(5) Two recent photographs of the applicant, of a type prescribed by the board [of private investigator examiners], and two classifiable sets of the applicant's fingerprints processed in a manner approved by the Missouri state highway patrol, central repository, under section 43.543;

(6) A verified statement of the applicant's experience qualifications; and

(7) Such other information, evidence, statements, or documents as may be required by the board [of private investigator examiners].

2. Before an application for a license may be granted, the applicant shall:

(1) Be at least twenty-one years of age;

(2) Be a citizen of the United States;

(3) Provide proof of liability insurance with amount to be no less than two hundred fifty thousand dollars in coverage and proof of workers' compensation insurance if required under chapter 287. The board shall have the authority to raise the requirements as deemed necessary; and

(4) Comply with such other qualifications as the board adopts by rules and regulations.

**324.1109. PRIVATE FIRE INVESTIGATORS, OWNER SEEKING AGENCY LICENSEE MUST HAVE INVESTIGATOR LICENSE, REQUIREMENTS.** — 1. The owner of a company seeking any fire investigator agency license shall be licensed as a private fire investigator. The fire investigator agency may hire individuals to work for the agency who shall conduct investigations for such fire investigator agency only. Such individuals shall make application for a license as determined by the board and shall meet all requirements set forth by the board by rule. These individuals shall not be required to meet any experience requirements and shall be allowed to begin work immediately upon approval of the application by the board. Employees shall attend an approved training program within a time to be determined by the board and shall be under the direct supervision of a licensed private fire investigator until all requirements are met.

2. A licensee shall at all times be legally responsible for the good conduct of each of the licensee's employees or agents while engaged in the business of the licensee. A licensee is legally responsible for any acts committed by the licensee and the licensee's employees or agents which are in violation of section 324.1100 to 324.1148. A person receiving an agency license shall directly manage the agency and employees.

3. Each licensee shall maintain a record containing such information relative to the licensee's employees as may be prescribed by the board by rule. Such licensee shall file with the board the complete address of the licensee's principal place of business, including the name and number of the street. The board may require the filing of other information for the purpose of identifying such principal place of business.

**324.1110. LICENSURE REQUIREMENTS.** — 1. The board [of private investigator examiners] shall require as a condition of licensure as a private investigator that the applicant pass a written examination as evidence of knowledge of investigator rules and regulations.

(1) In the event requirements have been met so that testing has been waived, qualification shall be dependent on a showing of, for the two previous years:

(a) Registration and good standing as a business in this state; and

(b) Two hundred fifty thousand dollars in business general liability insurance.

(2) The board may review applicants seeking reciprocity. An applicant seeking reciprocity shall have undergone a licensing procedure similar to that required by this state and shall meet this state's minimum insurance requirements.

2. The board shall require as a condition of licensure as a private fire investigator that the applicant:

(1) Provide evidence of active certification as a fire investigator issued by the division of fire safety; and

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**(2) Provide proof of liability insurance with coverage of at least one million dollars.**

3. The board shall conduct a complete investigation of the background of each applicant for licensure as a private investigator **or private fire investigator** to determine whether the applicant is qualified for licensure under sections 324.1100 to 324.1148. The board shall outline basic qualification requirements for licensing as a private investigator, **private investigator agency, private fire investigator, and private fire investigator agency.**

[3. In the event requirements have been met so that testing has been waived, qualification shall be dependent on a showing of, for the two previous years:

- (1) Registration and good standing as a business in this state; and
- (2) Two hundred fifty thousand dollars in business general liability insurance.

4. The board may review applicants seeking reciprocity. An applicant seeking reciprocity shall have undergone a licensing procedure similar to that required by this state and shall meet this state's minimum insurance requirements.]

**324.1112. DENIAL OF A REQUEST FOR LICENSURE, WHEN.** — 1. The board [of private investigator examiners] may deny a request for a license if the applicant:

(1) Has committed any act which, if committed by a licensee, would be grounds for the suspension or revocation of a license under the provisions of sections 324.1100 to 324.1148;

(2) Has been convicted of or entered a plea of guilty or nolo contendere to a felony offense, including the receiving of a suspended imposition of sentence following a plea or finding of guilty to a felony offense;

(3) Has been convicted of or entered a plea of guilty or nolo contendere to a misdemeanor offense involving moral turpitude, including receiving a suspended imposition of sentence following a plea of guilty to a misdemeanor offense;

(4) Has been refused a license under sections 324.1100 to 324.1148 or had a license revoked or denied in this state or any other state;

(5) Has falsified or willfully misrepresented information in an employment application, records of evidence, or in testimony under oath;

(6) Has been dependent on or abused alcohol or drugs; or

(7) Has used, possessed, or trafficked in any illegal substance;

(8) [Has been refused a license under the provisions of sections 324.1100 to 324.1148 or had a license revoked in this state or in any other state;

(9)] While unlicensed, committed or aided and abetted the commission of any act for which a license is required by sections 324.1100 to 324.1148 after August 28, 2007; or

[(10)] **(9) Knowingly made any false statement in the application to the board.**

2. The board shall consider any evidence of the applicant's rehabilitation when considering a request for licensure.

**324.1114. FEE REQUIRED — LICENSE FOR INDIVIDUALS ONLY, AGENCY LICENSE MUST BE APPLIED FOR SEPARATELY.** — 1. Every application submitted under the provisions of sections 324.1100 to 324.1148 shall be accompanied by a fee as determined by the board.

2. The board shall set fees as authorized by sections 324.1100 to 324.1148 at a level to produce revenue which will not substantially exceed the cost and expense of administering sections 324.1100 to 324.1148.

3. The fees prescribed by sections 324.1100 to 324.1148 shall be exclusive and notwithstanding any other provision of law. No municipality may require any person licensed under sections 324.1100 to 324.1148 to furnish any bond, pass any examination, or pay any license fee or occupational tax relative to practicing the person's profession.

4. A [private investigator] license **issued under sections 324.1100 to 324.1148** shall allow only the individual licensed by the state of Missouri to conduct investigations **as designated by**

**the licensure classification.** An agency license shall be applied for separately and held by a person who is licensed as a private investigator **or private fire investigator**. The agency may hire individuals to work for the agency conducting investigations for the agency only. Persons hired shall make application as determined by the board and meet all requirements set forth by the board except that they shall not be required to meet any experience requirements and shall be allowed to begin working immediately upon [the agency submitting their applications] **approval of the application by the board.**

**324.1116. AGENCY HIRING CRITERIA.** — A private investigator agency **or private fire investigator agency** shall not hire any individual as an employee unless the individual:

- (1) Is at least twenty-one years of age;
- (2) Provides two recent photographs of themselves, of a type prescribed by the board of private investigator examiners;
- (3) Has been fingerprinted in a manner approved by the Missouri state highway patrol, central repository, under section 43.543; and
- (4) Complies with any other qualifications and requirements the board adopts by rule.

**324.1118. LICENSURE REQUIRED — PROHIBITED ACTS.** — A private investigator agency **or private fire investigator agency** shall not hire an individual, who is not licensed as a private investigator **or private fire investigator**, as an employee if the individual:

- (1) Has committed any act which, if committed by a licensee, would be grounds for the suspension or revocation of a license under the provisions of sections 324.1100 to 324.1148;
- (2) Within two years prior to the application date:
  - (a) Has been convicted of or entered a plea of guilty or nolo contendere to a felony offense, including the receiving of a suspended imposition of sentence following a plea or finding of guilty to a felony offense;
  - (b) Has been convicted of or entered a plea of guilty or nolo contendere to a misdemeanor offense involving moral turpitude, including receiving a suspended imposition of sentence following a plea of guilty to a misdemeanor offense;
  - (c) Has falsified or willfully misrepresented information in an employment application, records of evidence, or in testimony under oath;
  - (d) Has been dependent on or abused alcohol or drugs; or
  - (e) Has used, possessed, or trafficked in any illegal substance;
- (3) Has been refused a license under the provisions of sections 324.1100 to 324.1148 or had a license revoked, **denied, or refused** in this state or in any other state;
- (4) While unlicensed, committed or aided and abetted the commission of any act for which a license is required by sections 324.1100 to 324.1148 after August 28, 2007; or
- (5) Knowingly made any false statement in the application.

**324.1120. SUPERVISION OF AGENCY EMPLOYEES REQUIRED, WHEN.** — An individual, who is not licensed as a private investigator **or private fire investigator**, hired as an employee by a private investigator agency **or private fire investigator agency** shall work only under the direct supervision of the agency whose identification number appears on their application and shall work only for one agency at any one time.

**324.1122. CONTINUING EDUCATION REQUIREMENTS.** — A licensee shall successfully complete sixteen hours of continuing education units biennially. An individual not licensed as a private investigator or private fire investigator who is hired as an employee by a private investigator agency or private fire investigator agency shall successfully complete eight hours of continuing

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education units biennially. Such continuing education shall be relevant to the private investigator or private fire investigator business and shall be approved by the board as such.

**324.1124. FORM OF LICENSE, CONTENTS — POSTING REQUIREMENTS.** — 1. The division shall determine the form of the license.

2. The license shall be posted at all times in a conspicuous place in the principal place of business of the licensee. Upon the issuance of a license, a pocket card of such size, design, and content as determined by the division shall be issued without charge to each licensee. Such card shall be evidence that the licensee is licensed under sections 324.1100 to 324.1148. When any person to whom a card is issued terminates such person's position, office, or association with the licensee, the card shall be surrendered to the licensee and within five days thereafter shall be mailed or delivered by the licensee to the board [of private investigator examiners] for cancellation. Within thirty days after any change of address, a licensee shall notify the board of the address change. The principal place of business may be at a residence or at a business address, but it shall be the place at which the licensee maintains a permanent office.

**324.1128. INFORMATION REGARDING CRIMINAL OFFENSES, LICENSEE TO DIVULGE AS REQUIRED BY LAW — PROHIBITED ACTS.** — 1. Any licensee may divulge to the board, any law enforcement officer, prosecuting attorney, or such person's representative any information such person may acquire about any criminal offense. The licensee shall not divulge to any other person, except as required by law, any other information acquired by the licensee at the direction of his or her employer or client for whom the information was obtained. A licensee may instruct his or her client to divulge any information to the board, any law enforcement officer, prosecuting attorney, or other such person's representative related to a criminal offense if the client is the victim of the criminal offense.

2. No licensee officer, director, partner, associate, or employee thereof shall:

(1) Knowingly make any false report to his or her employer or client for whom information was being obtained;

(2) Cause any written report to be submitted to a client except by the licensee, and the person submitting the report shall exercise diligence in ascertaining whether or not the facts and information in such report are true and correct;

(3) Use a title, wear a uniform, use an insignia or an identification card, or make any statement with the intent to give an impression that such person is connected in any way with the federal government, a state government, or any political subdivision of a state government;

(4) Appear as an assignee party in any proceeding involving claim and delivery, replevin or other possessory action, action to foreclose a chattel mortgage, mechanic's lien, materialman's lien, or any other lien;

(5) Manufacture false evidence; [or]

(6) **Allow anyone other than the individual licensed pursuant to the provisions of sections 324.1100 to 324.1148 or otherwise authorized by such sections to conduct an investigation;**

(7) **Assign or transfer a license issued pursuant to section 324.1100 to 324.1148; or**

(8) Create any video recording of an individual in their domicile without the individual's permission. Furthermore, if such video recording is made, it shall not be admissible as evidence in any civil proceeding, **except in a proceeding against such licensee officer, director, partner, associate, or employee.**

**324.1130. RECORDS TO BE MAINTAINED — REQUIRED FILINGS.** — Each licensee shall maintain a record containing such information relative to the licensee's employees as may be prescribed by the board [of private investigator examiners]. Such licensee shall file with the board

the complete address of the location of the licensee's principal place of business. The board may require the filing of other information for the purpose of identifying such principal place of business.

**324.1132. ADVERTISING REQUIREMENTS.** — Every advertisement by a licensee soliciting or advertising business shall contain the licensee's name, city, and state as it appears in the records of the board [of private investigator examiners]. No individual or business can advertise as a private investigator, private detective, [or] private investigator agency, **private fire investigator, or private fire investigator agency** without including their [state private investigator or private investigator] **individual or** agency license number in the advertisement. A licensee shall not advertise or conduct business from any Missouri address other than that shown on the records of the board as the licensee's principal place of business unless the licensee has received an additional agency license for such location after compliance with the provisions of sections 324.1100 to 324.1148 and such additional requirements necessary for the protection of the public as the board may prescribe by regulation. A licensee shall notify the board in writing within ten days after closing or changing the location of a branch office. The fee for the additional license shall be determined by the board.

**324.1134. LICENSURE SANCTIONS PERMITTED, PROCEDURE — COMPLAINT MAY BE FILED WITH ADMINISTRATIVE HEARING COMMISSION — DISCIPLINARY ACTION AUTHORIZED, WHEN.** — 1. The board may suspend or refuse to **issue or** renew any certificate of registration or authority, permit or license required under sections 324.1100 to 324.1148 for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the suspension or refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621. As an alternative to a refusal to issue or renew any certificate, registration or authority, the board may, at its discretion, issue a license which is subject to probation, restriction or limitation to an applicant for licensure for any one or any combination of causes stated in subsection 2 of this section. The board's order of probation, limitation or restriction shall contain a statement of the discipline imposed, the basis therefor, the date such action shall become effective, and a statement that the applicant has thirty days to request in writing a hearing before the administrative hearing commission. If the board issues a probationary, limited or restricted license to an applicant for licensure, either party may file a written petition with the administrative hearing commission within thirty days of the effective date of the probationary, limited or restricted license seeking review of the board's determination. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the board's decision shall be considered as waived.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any certificate of registration or authority, permit or license required by [this chapter] **sections 324.1100 to 324.1148** or any person who has failed to renew or has surrendered the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

- (1) Making any false statement or giving any false information or given any false information in connection with an application for a license or a renewal or reinstatement thereof;
- (2) Violating any provision of sections 324.1100 to 324.1148;
- (3) Violating any rule of the board of private investigator examiners adopted under the authority contained in sections 324.1100 to 324.1148;
- (4) Impersonating, or permitting or aiding and abetting an employee to impersonate, a law enforcement officer, **fire safety officer**, or employee of the United States of America, or of any state or political subdivision thereof;

(5) Committing, or permitting any employee to commit any act, while the license was expired, which would be cause for the suspension or revocation of a license, or grounds for the denial of an application for a license;

(6) Knowingly violating, or advising, encouraging, or assisting the violation of, any court order or injunction in the course of business as a licensee;

(7) Using any letterhead, advertisement, or other printed matter, or in any manner whatever represented that such person is an instrumentality of the federal government, a state, or any political subdivision thereof;

(8) Using a name different from that under which such person is currently licensed in any advertisement, solicitation, or contract for business;

(9) Violating or assisting or enabling any person to violate any provision of this chapter or any lawful rule or regulation adopted pursuant to the authority granted in this chapter; or

(10) Committing any act which is grounds for denial of an application for a license under section 324.1112.

3. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction, and a plea or verdict of guilty is deemed to be a conviction within the meaning thereof.

4. The agency may continue under the direction of another employee if the licensee's license is suspended or revoked by the board. The board shall establish a time frame in which the agency shall identify an acceptable person who is qualified to assume control of the agency, as required by the board.

5. After the filing of a complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a finding by the administrative hearing commission that the grounds in subsection 1 of this section for disciplinary action are met, the board may singly or in combination censure or place the person named in the complaint on probation under such terms and conditions as the board deems appropriate for a period not to exceed five years, may suspend for a period not to exceed three years, or revoke the license.

**324.1136. RECORD-KEEPING REQUIREMENTS — INVESTIGATORY POWERS OF THE BOARD.** — 1. [Each licensee shall maintain a record containing such information relative to the licensee's employees as may be prescribed by the board of private investigator examiners. Such licensee shall file with the board the complete address of the location of the licensee's principal place of business. The board may require the filing of other information for the purpose of identifying such principal place of business.

2.] Each [private investigator or investigator agency] **licensee** operating under the provisions of sections 324.1100 to 324.1148 shall be required to keep a complete record of the business transactions of such investigator or investigator agency for a period of seven years. Upon the service of a court order issued by a court of competent jurisdiction or upon the service of a subpoena issued by the board that is based on a complaint supported by oath or affirmation, which particularly describes the records and reports, any [licensed private investigator] **licensee** who is the owner, partner, director, corporate officer, or custodian of business records shall provide an opportunity for the inspection of the same and to inspect reports made. Any information obtained by the board shall be kept confidential, except as may be necessary to commence and prosecute any legal proceedings. The board shall not personally enter a licensee's place of business to inspect records, but shall utilize an employee of the division of professional registration to act as a gatherer of information and facts to present to the board regarding any complaint or inspection under investigation.

[3.] 2. For the purpose of enforcing the provisions of sections 324.1100 to 324.1148, and in making investigations relating to any violation thereof, the board shall have the power to subpoena and bring before the board any person in this state and require the production of any books, records, or papers which the board deems relevant to the inquiry. The board also may administer an oath

to and take the testimony of any person, or cause such person's deposition to be taken, except that any applicant or licensee or officer, director, partner, or associate thereof shall not be entitled to any fees or mileage. A subpoena issued under this section shall be governed by the Missouri rules of civil procedure and shall comply with any confidentiality standards or legal limitations imposed by privacy or open records acts, fair credit reporting acts, polygraph acts, driver privacy protection acts, judicially recognized privileged communications, and the bill of rights of both the United States and Missouri Constitutions. Any person duly subpoenaed who fails to obey such subpoena without reasonable cause, or without such cause refuses to be examined or to answer any legal or pertinent question as to the character or qualification of such applicant or licensee or such applicant's alleged unlawful or deceptive practices or methods, shall be guilty of a class A misdemeanor. The testimony of witnesses in any investigative proceeding shall be under oath.

[4.] 3. Any licensee who is required by fully executed written contract or court order to destroy, seal, or return to a party to a lawsuit, or to the court, records related to work performed under that contract or court order shall maintain in his or her files a fully executed copy of the contract or court order requiring destruction, sealing, or return of the records. Maintenance of the contract or court order shall fulfill the requirements of this section.

**324.1138. RULEMAKING AUTHORITY.** — 1. The board shall adopt such rules and regulations as may be necessary to carry out the provisions of sections 324.1100 to 324.1148.

2. **The board may establish by rule requirements for a dual license to be issued to individuals who qualify separately for both a private investigator and private fire investigator licensure.**

3. **The board may establish by rule a code of conduct.**

4. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in sections 324.1100 to 324.1148 shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

**324.1144. RECIPROCITY.** — The board may negotiate and enter into reciprocal agreements with appropriate officials in other states to permit licensed private [investigator] **investigators, fire investigators, private investigator agencies, and private fire investigator agencies** [and licensed private investigators] who meet or exceed the qualifications established in sections 324.1100 to 324.1148 to operate across state lines under mutually acceptable terms.

**332.021. DENTAL BOARD, MEMBERS, QUALIFICATIONS, APPOINTMENT, TERMS, VACANCY, HOW FILLED — BOARD MAY SUE AND BE SUED.** — 1. "The Missouri Dental Board" shall consist of seven members including five registered and currently licensed dentists, one registered and currently licensed dental hygienist with voting authority as limited in subsection 4 of this section, and one voting public member. Any currently valid certificate of registration or currently valid specialist's certificate issued by the Missouri dental board as constituted pursuant to prior law shall be a valid certificate of registration or a valid specialist's certificate, as the case may be, upon October 13, 1969, and such certificates shall be valid so long as the holders thereof comply with the provisions of this chapter.

2. Any person other than the public member appointed to the board as hereinafter provided shall be a dentist or a dental hygienist who is registered and currently licensed in Missouri, is a United States citizen, has been a resident of this state for one year immediately preceding his or her appointment, has practiced dentistry or dental hygiene for at least five consecutive years

immediately preceding his or her appointment, shall have graduated from an accredited dental school or dental hygiene school, and at the time of his or her appointment or during his or her tenure on the board has or shall have no connection with or interest in, directly or indirectly, any dental college, dental hygiene school, university, school, department, or other institution of learning wherein dentistry or dental hygiene is taught, or with any dental laboratory or other business enterprise directly related to the practice of dentistry or dental hygiene.

3. The governor shall appoint members to the board by and with the advice and consent of the senate when a vacancy thereon occurs either by the expiration of a term or otherwise; provided, however, that any board member shall serve until his or her successor is appointed and has qualified. Each appointee, except where appointed to fill an unexpired term, shall be appointed for a term of five years. The president of the Missouri Dental Association in office at the time shall, at least ninety days prior to the expiration of the term of a board member other than the dental hygienist or public member, or as soon as feasible after a vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five dentists qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Dental Association shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association.

4. The public member shall be at the time of his or her appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. **The list of dentists submitted to the governor shall include the names submitted to the director of the division of professional registration by the president of the Missouri Dental Association. This list shall be a public record available for inspection and copying under chapter 610.** Lists of dental hygienists submitted to the governor may include names submitted to the director of the division of professional registration by the president of the Missouri Dental Hygienists' Association. The duties of the dental hygienist member shall not include participation in the determination for or the issuance of a certificate of registration or a license to practice as a dentist. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

5. The board shall have a seal which shall be in circular form and which shall impress the word "SEAL" in the center and around said word the words "Missouri Dental Board". The seal shall be affixed to such instruments as hereinafter provided and to any other instruments as the board shall direct.

6. The board may sue and be sued as the Missouri dental board, and its members need not be named as parties. Members of the board shall not be personally liable, either jointly or severally, for any act or acts committed in the performance of their official duties as board members; nor shall any board member be personally liable for any court costs which accrue in any action by or against the board.

**334.120. BOARD CREATED — MEMBERS, APPOINTMENT, QUALIFICATIONS, TERMS, COMPENSATION.** — 1. There is hereby created and established a board to be known as "The State Board of Registration for the Healing Arts" for the purpose of registering, licensing and supervising all physicians and surgeons, and midwives in this state. The board shall consist of nine members, including one voting public member, to be appointed by the governor by and with the

advice and consent of the senate, at least five of whom shall be graduates of professional schools accredited by the Liaison Committee on Medical Education or recognized by the Educational Commission for Foreign Medical Graduates, and at least two of whom shall be graduates of professional schools approved and accredited as reputable by the American Osteopathic Association, and all of whom, except the public member, shall be duly licensed and registered as physicians and surgeons pursuant to the laws of this state. Each member must be a citizen of the United States and must have been a resident of this state for a period of at least one year next preceding his or her appointment and shall have been actively engaged in the lawful and ethical practice of the profession of physician and surgeon for at least five years next preceding his or her appointment. Not more than four members shall be affiliated with the same political party. All members shall be appointed for a term of four years. Each member of the board shall receive as compensation an amount set by the board not to exceed fifty dollars for each day devoted to the affairs of the board, and shall be entitled to reimbursement of his or her expenses necessarily incurred in the discharge of his or her official duties. The president of the Missouri State Medical Association, for all medical physician appointments, or the president of the Missouri Association of Osteopathic Physicians and Surgeons, for all osteopathic physician appointments, in office at the time shall, at least ninety days prior to the expiration of the term of the respective board member, other than the public member, or as soon as feasible after the appropriate vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five physicians and surgeons qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri State Medical Association or the Missouri Association of Osteopathic Physicians and Surgeons, as appropriate, shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association.

2. The public member shall be at the time of his or her appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. **The list of medical physicians or osteopathic physicians submitted to the governor shall include the names submitted to the director of the division of professional registration by the president of the Missouri State Medical Association or the Missouri Association of Osteopathic Physicians and Surgeons, respectively. This list shall be a public record available for inspection and copying under chapter 610.** The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

**344.060. BOARD CREATED — MEMBERSHIP, QUALIFICATIONS, TERMS, REMOVED HOW, HEARING.** — 1. The [director of the department of health and senior services] **governor** shall appoint **with the advice and consent of the senate** ten suitable persons who together with the director of the department of health and senior services or the director's designee shall constitute the "Missouri Board of Nursing Home Administrators" which is hereby created within the department of health and senior services and which shall have the functions, powers and duties prescribed by sections 344.010 to 344.108.

2. In addition to the director of the department of health and senior services or the director's designee the membership of the board shall consist of one licensed physician, two licensed health professionals, one person from the field of health care education, four persons who have been in general administrative charge of a licensed nursing home for a period of at least five years

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immediately preceding their appointment, and two public members. In addition to these qualifications, the physician, the two licensed health care professionals, and the health care educator shall be citizens of the United States and taxpaying residents of the state of Missouri for one year preceding their appointments. The four appointees who have been in general administrative charge of a licensed nursing home shall be citizens of the United States and either residents of the state of Missouri for one year preceding their appointments or persons who have been licensed by the board and whose five years of employment in a licensed nursing home immediately preceding their appointment have occurred in the state of Missouri. The public members shall be citizens of the United States, residents of the state of Missouri for one year preceding their appointment, and registered voters. The public members shall be persons who are not, or never were, licensed nursing home administrators or the spouse of such persons, or persons who do not have or never have had a material, financial interest in either the providing of licensed nursing home services or in an activity or organization directly related to licensed nursing home administration. Neither the one licensed physician, the two licensed health professionals, nor the person from the health care education field shall have any financial interest in a licensed nursing home.

3. The members of the board shall be appointed for three-year terms or until their successors are appointed and qualified provided that no more than four members' terms shall expire in the same year. [All members appointed prior to September 28, 1979, shall serve the term for which they were appointed.] The governor shall fill any vacancies on the board as necessary. Appointment to fill an unexpired term shall not be considered an appointment for a full term. Board membership, continued until successors are appointed and qualified, shall not constitute an extension of the three-year term and the successors shall serve only the remainder of the term.

4. Every member shall receive a certificate of appointment; and every appointee, before entering upon his or her duties, shall take the oath of office required by article VII, section 11, of the Constitution of Missouri.

5. Any member of the board may be removed by the [director of the department of health and senior services] **governor** for misconduct, incompetency or neglect [to] **of** duty after first being given an opportunity to be heard in his or her own behalf.

**344.105. RETIRED LICENSES PERMITTED, WHEN, PROCEDURE.** — 1. Any nursing home administrator possessing a current license to practice as a nursing home administrator in this state who has maintained an active license for at least ten years may retire his or her license by filing an affidavit with the board which states the date on which the licensee retired from such practice and such other facts as tend to verify the retirement as the board may deem necessary. The affidavit shall be accompanied by a fee as provided by rule, made payable to the department of health and senior services. Such request for retired status may also be accomplished by signing the request for retired status that appears on the nursing home administrator's application for license renewal and returning such application to the board prior to June thirtieth of the year of renewal of the administrator's active license, accompanied by a fee as provided by rule, made payable to the department of health and senior services. [Information provided in the request for retired status shall be given under oath subject to the penalties for the making of a false affidavit.]

2. An individual who requests retired license status shall return his or her original wall license and all other indicia of licensure to the board. Once the board has received the original wall license from the licensee or evidence satisfactory to the board that the license has been lost, stolen, or destroyed, and the other requirements for requesting retired status have been met, the board shall issue a new license to the licensee indicating that the licensee is retired.

3. A retired license may be reactivated within five years of the granting of the retired license by filing with the board evidence satisfactory to the board of the completion of twenty clock hours of continuing education for each calendar year the license was retired accompanied by a fee as

provided by rule made payable to the department of health and senior services. All clock hours of continuing education shall be completed prior to the filing of the affidavit or renewal form requesting reactivation of the retired license. If more than five years have passed since the issuance of a retired license to a licensee, the licensee shall follow the procedures for initial licensure stated in section 344.030.

4. No person shall practice as a nursing home administrator in this state or hold himself or herself out as a nursing home administrator if his or her license is retired.

5. Retired licensees shall remain subject to disciplinary action for violations of this chapter and the rules promulgated thereunder.

**344.108. INACTIVE STATUS OF LICENSE PERMITTED, WHEN — REACTIVATION, PROCEDURE.** — 1. Any nursing home administrator possessing a current license to practice as a nursing home administrator in this state may place such license on inactive status by filing a written signed request for inactive status with the board, accompanied by evidence satisfactory to the board of completion of ten clock hours of continuing education in the area of patient care and a fee as provided by rule made payable to the department of health and senior services. This request may also be accomplished by signing the request for inactive status that appears on the nursing home administrator's application for license renewal and returning such application to the board prior to June thirtieth of the year of renewal of the administrator's active license, accompanied by evidence satisfactory to the board of the completion of ten clock hours of continuing education in the area of patient care and a fee as provided by rule made payable to the department of health and senior services. [Information provided in the request for inactive status shall be given under oath subject to the penalties of making a false affidavit.]

2. An individual who requests that his or her license be placed on inactive status shall return all indicia of licensure to the board or submit evidence satisfactory to the board that the license has been lost, stolen, or destroyed.

3. An inactive license shall expire on June thirtieth of the second year following the year of issuance and every other year thereafter. Licensees seeking to renew shall, during the month of May of the year of renewal, file an application for renewal on forms furnished by the board that include evidence satisfactory to the board of the completion of ten clock hours of continuing education in the area of patient care and shall be accompanied by a renewal fee as provided by rule, payable to the department of health and senior services.

4. A license may be carried in inactive status for up to six years from the date of issuance. If the licensee does not reactivate the license during the six-year period, the license shall expire on the last day of the six-year period.

5. A holder of an inactive license may reactivate the license by submitting a written request to the board, accompanied by evidence satisfactory to the board of the completion or plan for completion of forty clock hours of continuing education and a fee as provided by rule made payable to the department of health and senior services. The forty clock hours of continuing education shall be earned no earlier than six months prior to the request for reactivation and no later than twelve months after the inactive license has been reactivated. If the holder of an inactive license requests reactivation prior to completing the forty clock hours of continuing education, the board shall issue a six-month interim license to the licensee. The interim license shall expire six months from the date of issuance or at such earlier time as the licensee earns the forty clock hours of continuing education and submits evidence satisfactory to the board of completion of the required hours.

6. A request for reactivation of an inactive license shall show, under oath or affirmation of the nursing home administrator, a statement that the nursing home administrator has not practiced during the inactive period and is not presently practicing in this state.

7. No person shall practice as a nursing home administrator or hold himself or herself out as a nursing home administrator in this state while his or her license is inactive.

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8. Inactive licensees shall remain subject to discipline for violations of this chapter and the rules promulgated thereunder.

**361.070. DIRECTOR AND EMPLOYEES — OATH — BOND — PROHIBITED ACTS — POWERS OF DIRECTOR.** — 1. The director of finance and all employees of the division of finance, which term shall, for purposes of this section and section 361.080, include special agents, shall, before entering upon the discharge of their duties, take the oath of office prescribed by the constitution, and, in addition, take an oath that they will not reveal the conditions or affairs of any financial institution or any facts pertaining to the same, that may come to their knowledge by virtue of their official positions, unless required by law to do so in the discharge of the duties of their offices or when testifying in any court proceeding. For purposes of this section and section 361.080, "financial institution" shall mean any entity subject to chartering, licensing, or regulation by the division of finance.

2. The director of finance and all employees of the division of finance shall further execute to the state of Missouri good and sufficient bonds with corporate surety, to be approved by the governor and attorney general, conditioned that they will faithfully and impartially discharge the duties of their offices, and pay over to the persons entitled by law to receive it, all money coming into their hands by virtue of their offices. The principal amount of bond applicable to each employee shall be determined by the state banking **and savings and loan** board. The bond, after approval by the governor and attorney general, shall be filed with the secretary of state for safekeeping. The bond premiums, not to exceed one percent on the amount thereof, shall be paid out of the state treasury in the same manner as other expenses of the division.

3. Neither the director of finance nor any employees of the division of finance who participate in the examination of any bank or trust company, or who may be called upon to make any official decision or determination affecting the operation of any bank or trust company, other than the [banker] members of the state banking **and savings and loan** board **who are required to have experience managing a bank or association as defined in chapter 369**, shall be an officer, director, attorney, owner, or holder of stock in any bank or trust company or any bank holding company as that term is defined in section 362.910, nor shall they receive, directly or indirectly, any payment or gratuity from any such organization, nor engage in the negotiation of loans for others with any state bank or trust company, nor be indebted to any state bank or trust company.

4. The director of finance, in connection with any examination or investigation of any person, company, or event, shall have the authority to compel the production of documents, in whatever form they may exist, and shall have the authority to compel the attendance of and administer oaths to any person having knowledge of any issue involved with the examination or investigation. The director may seek judicial enforcement of an administrative subpoena by application to the appropriate court. An administrative subpoena shall be subject to the same defenses or subject to a protective order or conditions as provided and deemed appropriate by the court in accordance with the Missouri Supreme Court Rules.

**361.092. STATE BANKING AND SAVINGS AND LOAN BOARD CREATED.** — There is hereby created a "State Banking **and Savings and Loan** Board" which shall have such powers and duties as are conferred upon it by law. The state banking **and savings and loan** board with all of its powers, duties, and functions is assigned by type III transfer under the authority of the Omnibus State Reorganization Act of 1974 [and executive order 06-04] to the department of insurance, financial institutions and professional registration.

**361.093. BOARD TO ADVISE AND RECOMMEND.** — The state banking **and savings and loan** board shall advise [with] the director of finance as to the proper administration of his office

and the banking laws of this state and make recommendations to the general assembly as to changes in these laws.

**361.094. BOARD TO DETERMINE APPEALS — PROCEDURE — HEARING OFFICER AUTHORIZED.** — 1. The state banking **and savings and loan** board shall with reasonable promptness hear and by order determine all appeals permitted by law from refusals of the director of finance to grant certificates of incorporation to the proposed incorporators of banks, from refusals of the director of finance to issue certificates permitting changes in the articles of agreement of banks to provide for the relocation of these banks in other communities, from refusals of the director of finance to grant certificates of incorporation to the proposed incorporators of trust companies, and from refusals of the director of finance to issue certificates permitting changes in the articles of agreement of trust companies to provide for the relocation of these trust companies in other communities.

2. The state banking **and savings and loan** board shall hear and by order determine an appeal from the action of the director granting the incorporation or relocation of a bank or trust company upon application filed within ten days after the director's action by a bank, trust company, national banking association or other persons claiming to be adversely affected thereby. The application shall state the grounds upon which it is alleged that the action of the director should be stayed, reversed or altered. In reviewing an application for appeal, the board shall have access to all of the records and information used by the director in making his decision. A decision shall be rendered on the appeal within ninety days from the date of the application for appeal.

3. The board shall establish such rules as may be necessary to give effect to the provisions of this section. The rules may provide that the board or the chairman of the board may delegate responsibility for the conduct of investigations and the hearing of appeals provided under any section of this law to a member of the board or to a hearing officer designated by the board. Such hearing officer shall have the power to administer oaths, subpoena witnesses, compel the production of records pertinent to any hearing, and take any action in connection with such hearing which the board itself is authorized to take by law other than making the final decision and appropriate order. When the hearing has been completed, the individual board member or the hearing officer who conducted the hearing shall prepare a summary thereof and recommend a findings of fact, conclusions of law, decision and appropriate order for approval of the board. The board may adopt such recommendations in whole or in part, require the production of additional testimony, reassign the case for rehearing, or may itself conduct such new or additional hearing as is deemed necessary prior to rendering a final decision.

**361.095. PROCEDURE ON APPEALS — COSTS — PARTIES — JUDICIAL REVIEW.** — 1. The state banking **and savings and loan** board shall make rules and regulations, consistent with applicable law, for the proceedings in connection with the appeals provided for in section 361.094. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

2. The costs of the appeal shall be assessed against the losing party, and the board may require the deposit of a reasonable sum for the payment of costs at the time the appeal is brought.

3. At any hearing provided for in section 361.094 the director of the division of finance shall be deemed a party, and any person claiming to be adversely affected and any bank, trust company or national banking association located in the city or town and county in which the proposed bank or trust company is to be located upon incorporation or relocation may intervene.

4. The director of the division of finance shall act in accordance with any order of the state banking **and savings and loan** board made pursuant to section 361.094, but the order of the board shall be subject to judicial review as provided by law. Whether or not any review shall operate as a stay of the board's order shall be determined by the board.

**361.096. BOARD MAY SUBPOENA WITNESSES AT HEARINGS — OATHS — ENFORCEMENT OF SUBPOENA OR TESTIMONY.** — 1. At any hearing provided for in section 361.094, the state banking **and savings and loan** board, or any member thereof, shall have power to administer oaths.

2. In connection with any such hearing, the board, or any member thereof, shall issue subpoenas and subpoenas duces tecum on the board's own motion or at the request of any intervenor or other party, which subpoenas or subpoenas duces tecum shall extend to all parts of the state and shall be signed by the secretary of the board or by any other member thereof. The board shall have power, on motion after due notice, for good cause to quash or modify any subpoena or subpoena duces tecum on the grounds that the same is unduly burdensome, unreasonable or oppressive. Subpoenas and subpoenas duces tecum may be served as in the case of subpoenas in civil actions in the circuit court and each witness who shall appear before the board in obedience to a subpoena or subpoena duces tecum shall receive for his attendance the fees and mileage provided for witnesses in civil actions in the circuit court, which shall be paid by the party at whose instance such subpoena or subpoena duces tecum was issued. In case of refusal of a witness to obey any such subpoena or subpoena duces tecum, or to testify when lawfully required to do so, the board may apply to a judge of the circuit court of the county of the hearing or of any county where the witness resides or may be found, for an order upon such witness to show cause why such subpoena or subpoena duces tecum should not be enforced, or the witness required to give such testimony, which said order and a copy of the application therefor shall be served upon the witness in the same manner as a summons in a civil action, and if said circuit court shall, after a hearing, determine that the subpoena or subpoena duces tecum should be sustained and enforced, or that the witness should be required to give such testimony, said court shall make an order to enforce such subpoena or subpoena duces tecum, or compel such testimony and may enforce such order as in the case of a subpoena or subpoena duces tecum, or refusal to testify, in a civil action in the circuit court.

**361.097. BOARD MEMBERS, APPOINTMENT, QUALIFICATIONS, TERMS.** — 1. The state banking **and savings and loan** board shall consist of five members who shall be appointed by the governor, the senate concurring. No person shall be eligible for appointment unless he [shall be] **or she is** a resident of this state. One member shall be an attorney at law and a member of the Missouri Bar in good standing. Two members shall each have had at least [ten years] **five years of active bank management** experience in this state [as an officer or director or partly as an officer and partly as a director of one or more state banks or trust companies or national banking associations, of which at least five years shall have been full-time, active bank management experience]. **One member shall have had at least five years of active management experience in this state of one or more associations as defined in chapter 369.** [The two other members] **One member** shall be [nonbankers] **an individual who is not involved in the administration of a financial institution.** Not more than three members of the board shall be members of the same political party. [The term of office of the board first appointed shall in the case of one member be two years; in the case of two members shall be four years; and in the case of the other two members shall be six years; with all said terms beginning August 29, 1955. All subsequent terms shall be for a term of six years from the expiration of the preceding term. The governor shall designate one member as chairman and another member as secretary of the board.]

2. **The term of office of each member of the state banking and savings and loan board shall be six years. The board shall select its own chairman and secretary.** The members of the state banking **and savings and loan** board shall hold office for the respective terms for which they are appointed and until their successors shall qualify. Vacancies [in said] **on such** board shall be filled by appointment for the unexpired term in the same manner as in the case of an original appointment.

**361.098. BOARD MEMBERS, COMPENSATION — QUORUM OF BOARD — MEETINGS — SEAL.** — 1. The members of the state banking **and savings and loan** board shall receive as compensation for their services the sum of one hundred dollars per day while discharging their duties, and shall be entitled to receive their necessary traveling and other expenses incurred while actually engaged in the performance of their duties as such members.

2. A majority of the members of the board shall constitute a quorum for the transaction of any business, for the performance of any duty or for the exercise of any power of the board.

3. The board may meet and exercise its powers in any place in this state and shall meet at any time upon the call of its chairman or of the director of the division of finance or of any two members of the board.

4. The board shall have an official seal bearing the inscription, "State Banking **and Savings and Loan** Board of the State of Missouri", which shall be judicially noticed.

**361.105. DIRECTOR OF FINANCE AUTHORIZED TO ISSUE RULES WITH APPROVAL OF STATE BANKING AND SAVINGS AND LOAN BOARD — RULEMAKING PROCEDURE.** — 1. The director of finance, with the approval of the state banking **and savings and loan** board, shall have power to adopt, promulgate, amend and repeal rules and regulations necessary or desirable to carry out the duties assigned to the division by law relating to banks and trust companies and which are not inconsistent with the constitution or laws of this state. A copy of every rule and regulation shall be mailed to each bank and trust company, postage prepaid, at least fifteen days in advance of its effective date; except that the failure of a bank or trust company to receive a copy of a rule or regulation shall not exempt it from the duty of compliance with a rule or regulation lawfully promulgated hereunder. The director, in the exercise of the power to make rules and regulations hereunder, shall act in the interests of promoting and maintaining a sound banking system and sound trust companies, the security of deposits and depositors and other customers, the preservation of the liquid position of banks and in the interest of preventing injurious credit expansions and contractions.

2. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

**362.040. NOTICE OF REFUSAL OF CERTIFICATE — APPEAL.** — In case the director shall not be satisfied, as the result of the examination, that the character, responsibility and general fitness of the persons named in the articles of agreement are up to the standard above provided, or that the convenience and needs of the community to be served justify and warrant the opening of the new bank or trust company therein, or that the probable volume of business in such locality is sufficient to insure and maintain the solvency of the new bank and the solvency of the then existing banks or trust companies in the locality, without endangering the safety of any bank or trust company in the locality as a place of deposit of public and private moneys; and on these accounts or any one of them shall refuse to grant the certificate of incorporation, [he] **the director** shall forthwith give notice thereof to the proposed incorporators from whom the articles of agreement were received, who, if they so desire, may within ten days thereafter appeal from the refusal to the state banking **and savings and loan** board.

**[362.105. POWERS AND AUTHORITY OF BANKS AND TRUST COMPANIES.** — 1. Every bank and trust company created under the laws of this state may for a fee or other consideration, directly or through a subsidiary company, and upon complying with any applicable licensing statute:

(1) Conduct the business of receiving money on deposit and allowing interest thereon not exceeding the legal rate or without allowing interest thereon, and of buying and selling exchange, gold, silver, coin of all kinds, uncurrent money, of loaning money

upon real estate or personal property, and upon collateral of personal security at a rate of interest not exceeding that allowed by law, and also of buying, investing in, selling and discounting negotiable and nonnegotiable paper of all kinds, including bonds as well as all kinds of commercial paper; and for all loans and discounts made, the corporation may receive and retain the interest in advance;

(2) Accept for payment, at a future date, drafts drawn upon it by its customers and to issue letters of credit authorizing the holders thereof to draw drafts upon it or upon its correspondents at sight or on time not exceeding one year; provided, that no bank or trust company shall incur liabilities under this subdivision to an amount equal at any time in the aggregate to more than its paid-up and unimpaired capital stock and surplus fund, except with the approval of the director under such general regulations as to amount of acceptances as the director may prescribe;

(3) Purchase and hold, for the purpose of becoming a member of a Federal Reserve Bank, so much of the capital stock thereof as will qualify it for membership in the reserve bank pursuant to an act of Congress, approved December 23, 1913, entitled "The Federal Reserve Act" and any amendments thereto; to become a member of the Federal Reserve Bank, and to have and exercise all powers, not in conflict with the laws of this state, which are conferred upon any member by the Federal Reserve Act and any amendments thereto. The member bank or trust company and its directors, officers and stockholders shall continue to be subject, however, to all liabilities and duties imposed upon them by any law of this state and to all the provisions of this chapter relating to banks or trust companies;

(4) Subscribe for and purchase such stock in the Federal Deposit Insurance Corporation and to make such payments to and to make such deposits with the Federal Deposit Insurance Corporation and to pay such assessments made by such corporation as will enable the bank or trust company to obtain the benefits of the insurance of deposits under the act of Congress known as "The Banking Act of 1933" and any amendments thereto;

(5) Invest in a bank service corporation as defined by the act of Congress known as the "Bank Service Corporation Act", Public Law 87-856, as approved October 23, 1962, to the same extent as provided by that act or any amendment thereto;

(6) Hold a noncontrolling equity interest in any business entity that conducts only activities that are financial in nature or incidental to financial activity or that is established pursuant to subdivision (16) of this subsection where the majority of the stock or other interest is held by Missouri banks, Missouri trust companies, national banks located in Missouri, or any foreign bank with a branch or branches in Missouri, or any combination of these financial institutions; provided that if the entity is defined pursuant to Missouri law as any type of financial institution subsidiary or other type of entity subject to special conditions or regulations, those conditions and regulations shall remain applicable, and provided that such business entity may be formed as any type of business entity, in which each investor's liability is limited to the investment in and loans to the business entity as otherwise provided by law;

(7) Receive upon deposit for safekeeping personal property of every description, and to own or control a safety vault and rent the boxes therein;

(8) Purchase and hold the stock of one safe deposit company organized and existing under the laws of the state of Missouri and doing a safe deposit business on premises owned or leased by the bank or trust company at the main banking house and any branch operated by the bank or trust company; provided, that the purchasing and holding of the stock is first duly authorized by resolution of the board of directors of the bank or trust company and by the written approval of the director, and that all of the shares of the safe deposit company shall be purchased and held, and shall not be sold or

transferred except as a whole and not be pledged at all, all sales or transfers or pledges in violation hereof to be void;

(9) Act as the fiscal or transfer agent of the United States, of any state, municipality, body politic or corporation and in such capacity to receive and disburse money, to transfer, register and countersign certificates of stock, bonds and other evidences of indebtedness;

(10) Acquire or convey real property for the following purposes:

(a) Real property conveyed to it in satisfaction or part satisfaction of debts previously contracted in the course of its business; and

(b) Real property purchased at sales under judgment, decrees or liens held by it;

(11) Purchase, hold and become the owner and lessor of personal property acquired upon the specific request of and for use of a customer; and, in addition, leases that neither anticipate full purchase price repayment on the leased asset, nor require the lease to cover the physical life of the asset, other than those for motor vehicles which will not be used by bank or trust company personnel, and may incur such additional obligations as may be incident to becoming an owner and lessor of the property, subject to the following limitations:

(a) Lease transactions do not result in loans for the purpose of section 362.170, but the total amount disbursed under leasing obligations or rentals by any bank to any person, partnership, association, or corporation shall at no time exceed the legal loan limit permitted by statute except upon the written approval of the director of finance;

(b) Lease payments are in the nature of rent rather than interest, and the provisions of chapter 408 are not applicable;

(12) Contract with another bank or trust company, bank service corporation or other partnership, corporation, association or person, within or without the state, to render or receive services such as check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices, and similar items, or any other clerical, bookkeeping, accounting, statistical, financial counseling, or similar services, or the storage, transmitting or processing of any information or data; except that, the contract shall provide, to the satisfaction of the director of finance, that the party providing such services to a bank or trust company will be subject to regulation and examination to the same extent as if the services were being performed by the bank or trust company on its own premises. This subdivision shall not be deemed to authorize a bank or trust company to provide any customer services through any system of electronic funds transfer at places other than bank premises;

(13) Purchase and hold stock in a corporation whose only purpose is to purchase, lease, hold or convey real property of a character which the bank or trust company holding stock in the corporation could itself purchase, lease, hold or convey pursuant to the provisions of paragraph (a) of subdivision (10) of this subsection; provided, the purchase and holding of the stock is first duly authorized by resolution of the board of directors of the bank or trust company and by the written approval of the director, and that all of the shares of the corporation shall be purchased and held by the bank or trust company and shall not be sold or transferred except as a whole;

(14) Purchase and sell investment securities, without recourse, solely upon order and for the account of customers; and establish and maintain one or more mutual funds and offer to the public shares or participations therein. Any bank which engages in such activity shall comply with all provisions of chapter 409 regarding the licensing and registration of sales personnel for mutual funds so offered, provided that such banks shall register as a broker-dealer with the office of the commissioner of securities and shall

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consent to supervision and inspection by that office and shall be subject to the continuing jurisdiction of that office;

(15) Make debt or equity investments in corporations or projects, whether for profit or not for profit, designed to promote the development of the community and its welfare, provided that the aggregate investment in all such corporations and in all such projects does not exceed five percent of the unimpaired capital of the bank, and provided that this limitation shall not apply to loans made under the authority of other provisions of law, and other provisions of law shall not limit this subdivision;

(16) Offer through one or more subsidiaries any products and services which a national bank may offer through its financial subsidiaries, subject to the limitations that are applicable to national bank financial subsidiaries, and provided such bank or trust company meets the division of finance safety and soundness considerations. This subdivision is enacted to provide in part competitive equality with national banks' powers under the Gramm-Leach-Bliley Act of 1999, Public Law 106-102.

2. In addition to the power and authorities granted in subsection 1 of this section, and notwithstanding any limitations therein, a bank or trust company may:

(1) Purchase or lease, in an amount not exceeding its legal loan limit, real property and improvements thereto suitable for the convenient conduct of its functions. The bank may derive income from renting or leasing such real property or improvements or both. If the purchase or lease of such real property or improvements exceeds the legal loan limit or is from an officer, director, employee, affiliate, principal shareholder or a related interest of such person, prior approval shall be obtained from the director of finance; and

(2) Loan money on real estate and handle escrows, settlements and closings on real estate for the benefit of the bank's customers, as a core part of the banking business, notwithstanding any other provision of law to the contrary.

3. In addition to the powers and authorities granted in subsection 1 of this section, every trust company created under the laws of this state shall be authorized and empowered to:

(1) Receive money in trust and to accumulate the same at such rate of interest as may be obtained or agreed upon, or to allow such interest thereon as may be prescribed or agreed;

(2) Accept and execute all such trusts and perform such duties of every description as may be committed to it by any person or persons whatsoever, or any corporation, and act as assignee, receiver, trustee and depository, and to accept and execute all such trusts and perform such duties of every description as may be committed or transferred to it by order, judgment or decree of any courts of record of this state or other states, or of the United States;

(3) Take, accept and hold, by the order, judgment or decree of any court of this state, or of any other state, or of the United States, or by gift, grant, assignment, transfer, devise or bequest of any person or corporation, any real or personal property in trust, and to execute and perform any and all the legal and lawful trusts in regard to the same upon the terms, conditions, limitations and restrictions which may be declared, imposed, established or agreed upon in and by the order, judgment, decree, gift, grant, assignment, transfer, devise or bequest;

(4) Buy, invest in and sell all kinds of stocks or other investment securities;

(5) Execute, as principal or surety, any bond or bonds required by law to be given in any proceeding, in law or equity, in any of the courts of this state or other states, or of the United States;

(6) Act as trustee, personal representative, or conservator or in any other like fiduciary capacity;

(7) Act as attorney-in-fact or agent of any person or corporation, foreign or domestic, in the management and control of real or personal property, the sale or conveyance of same, the investment of money, and for any other lawful purpose.

4. (1) In addition to the powers and authorities granted in this section, the director of finance may, from time to time, with the approval of the state banking board, issue orders granting such other powers and authorities as have been granted to financial institutions subject to the supervision of the federal government to:

(a) State-chartered banks and trust companies which are necessary to enable such banks and trust companies to compete;

(b) State-chartered banks and trust companies to establish branches to the same extent that federal law permits national banks to establish branches;

(c) Subsidiaries of state-chartered banks and trust companies to the same extent powers are granted to national bank subsidiaries to enable such banks and trust companies to compete;

(d) State-chartered banks and trust companies to establish trust representative offices to the same extent national banks are permitted such offices.

(2) The orders shall be promulgated as provided in section 361.105 and shall not be inconsistent with the constitution and the laws of this state.

5. As used in this section, the term "subsidiary" shall include one or more business entities of which the bank or trust company is the owner, provided the owner's liability is limited by the investment in and loans to the subsidiary as otherwise provided for by law.

6. A bank or trust company to which authority is granted by regulation in subsection 4 of this section, based on the population of the political subdivision, may continue to exercise such authority for up to five years after the appropriate decennial census indicates that the population of the town in which such bank or trust company is located has exceeded the limits provided for by regulation pursuant to subsection 4 of this section.]

**362.105. POWERS AND AUTHORITY OF BANKS AND TRUST COMPANIES.** — 1. Every bank and trust company created under the laws of this state may for a fee or other consideration, directly or through a subsidiary company, and upon complying with any applicable licensing statute:

(1) Conduct the business of receiving money on deposit and allowing interest thereon not exceeding the legal rate or without allowing interest thereon, and of buying and selling exchange, gold, silver, coin of all kinds, uncurrent money, of loaning money upon real estate or personal property, and upon collateral of personal security at a rate of interest not exceeding that allowed by law, and also of buying, investing in, selling and discounting negotiable and nonnegotiable paper of all kinds, including bonds as well as all kinds of commercial paper; and for all loans and discounts made, the corporation may receive and retain the interest in advance;

(2) Accept for payment, at a future date, drafts drawn upon it by its customers and to issue letters of credit authorizing the holders thereof to draw drafts upon it or upon its correspondents at sight or on time not exceeding one year; provided, that no bank or trust company shall incur liabilities under this subdivision to an amount equal at any time in the aggregate to more than its paid-up and unimpaired capital stock and surplus fund, except with the approval of the director under such general regulations as to amount of acceptances as the director may prescribe;

(3) Purchase and hold, for the purpose of becoming a member of a Federal Reserve Bank, so much of the capital stock thereof as will qualify it for membership in the reserve bank pursuant to an act of Congress, approved December 23, 1913, entitled "The Federal Reserve Act" and any amendments thereto; to become a member of the Federal Reserve Bank, and to have and exercise all powers, not in conflict with the laws of this state, which are conferred upon any member by the Federal Reserve Act and any amendments thereto. The member bank or trust company and its

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directors, officers and stockholders shall continue to be subject, however, to all liabilities and duties imposed upon them by any law of this state and to all the provisions of this chapter relating to banks or trust companies;

(4) Subscribe for and purchase such stock in the Federal Deposit Insurance Corporation and to make such payments to and to make such deposits with the Federal Deposit Insurance Corporation and to pay such assessments made by such corporation as will enable the bank or trust company to obtain the benefits of the insurance of deposits under the act of Congress known as "The Banking Act of 1933" and any amendments thereto;

(5) Invest in a bank service corporation as defined by the act of Congress known as the "Bank Service Corporation Act", Public Law 87-856, as approved October 23, 1962, to the same extent as provided by that act or any amendment thereto;

(6) Hold a noncontrolling equity interest in any business entity that conducts only activities that are financial in nature or incidental to financial activity or that is established pursuant to subdivision (16) of this subsection where the majority of the stock or other interest is held by Missouri banks, Missouri trust companies, national banks located in Missouri, or any foreign bank with a branch or branches in Missouri, or any combination of these financial institutions; provided that if the entity is defined pursuant to Missouri law as any type of financial institution subsidiary or other type of entity subject to special conditions or regulations, those conditions and regulations shall remain applicable, and provided that such business entity may be formed as any type of business entity, in which each investor's liability is limited to the investment in and loans to the business entity as otherwise provided by law;

(7) Receive upon deposit for safekeeping personal property of every description, and to own or control a safety vault and rent the boxes therein;

(8) Purchase and hold the stock of one safe deposit company organized and existing under the laws of the state of Missouri and doing a safe deposit business on premises owned or leased by the bank or trust company at the main banking house and any branch operated by the bank or trust company; provided, that the purchasing and holding of the stock is first duly authorized by resolution of the board of directors of the bank or trust company and by the written approval of the director, and that all of the shares of the safe deposit company shall be purchased and held, and shall not be sold or transferred except as a whole and not be pledged at all, all sales or transfers or pledges in violation hereof to be void;

(9) Act as the fiscal or transfer agent of the United States, of any state, municipality, body politic or corporation and in such capacity to receive and disburse money, to transfer, register and countersign certificates of stock, bonds and other evidences of indebtedness;

(10) Acquire or convey real property for the following purposes:

(a) Real property conveyed to it in satisfaction or part satisfaction of debts previously contracted in the course of its business; and

(b) Real property purchased at sales under judgment, decrees or liens held by it;

(11) Purchase, hold and become the owner and lessor of personal property acquired upon the specific request of and for use of a customer; and, in addition, leases that neither anticipate full purchase price repayment on the leased asset, nor require the lease to cover the physical life of the asset, other than those for motor vehicles which will not be used by bank or trust company personnel, and may incur such additional obligations as may be incident to becoming an owner and lessor of the property, subject to the following limitations:

(a) Lease transactions do not result in loans for the purpose of section 362.170, but the total amount disbursed under leasing obligations or rentals by any bank to any person, partnership, association, or corporation shall at no time exceed the legal loan limit permitted by statute except upon the written approval of the director of finance;

(b) Lease payments are in the nature of rent rather than interest, and the provisions of chapter 408 are not applicable;

(12) Contract with another bank or trust company, bank service corporation or other partnership, corporation, association or person, within or without the state, to render or receive services such as check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices, and similar items, or any other clerical, bookkeeping, accounting, statistical, financial counseling, or similar services, or the storage, transmitting or processing of any information or data; except that, the contract shall provide, to the satisfaction of the director of finance, that the party providing such services to a bank or trust company will be subject to regulation and examination to the same extent as if the services were being performed by the bank or trust company on its own premises. This subdivision shall not be deemed to authorize a bank or trust company to provide any customer services through any system of electronic funds transfer at places other than bank premises;

(13) Purchase and hold stock in a corporation whose only purpose is to purchase, lease, hold or convey real property of a character which the bank or trust company holding stock in the corporation could itself purchase, lease, hold or convey pursuant to the provisions of paragraph (a) of subdivision (10) of this subsection; provided, the purchase and holding of the stock is first duly authorized by resolution of the board of directors of the bank or trust company and by the written approval of the director, and that all of the shares of the corporation shall be purchased and held by the bank or trust company and shall not be sold or transferred except as a whole;

(14) Purchase and sell investment securities, without recourse, solely upon order and for the account of customers; and establish and maintain one or more mutual funds and offer to the public shares or participations therein. Any bank which engages in such activity shall comply with all provisions of chapter 409 regarding the licensing and registration of sales personnel for mutual funds so offered, provided that such banks shall register as a broker-dealer with the office of the commissioner of securities and shall consent to supervision and inspection by that office and shall be subject to the continuing jurisdiction of that office;

(15) Make debt or equity investments in corporations or projects, whether for profit or not for profit, designed to promote the development of the community and its welfare, provided that the aggregate investment in all such corporations and in all such projects does not exceed five percent of the unimpaired capital of the bank, and provided that this limitation shall not apply to loans made under the authority of other provisions of law, and other provisions of law shall not limit this subdivision;

(16) Offer through one or more subsidiaries any products and services which a national bank may offer through its financial subsidiaries, subject to the limitations that are applicable to national bank financial subsidiaries, and provided such bank or trust company meets the division of finance safety and soundness considerations. This subdivision is enacted to provide in part competitive equality with national banks' powers under the Gramm-Leach-Bliley Act of 1999, Public Law 106-102.

2. In addition to the power and authorities granted in subsection 1 of this section, and notwithstanding any limitations therein, a bank or trust company may:

(1) Purchase or lease, in an amount not exceeding its legal loan limit, real property and improvements thereto suitable for the convenient conduct of its functions. The bank may derive income from renting or leasing such real property or improvements or both. If the purchase or lease of such real property or improvements exceeds the legal loan limit or is from an officer, director, employee, affiliate, principal shareholder or a related interest of such person, prior approval shall be obtained from the director of finance; and

(2) Loan money on real estate as defined in section 442.010, and handle escrows, settlements and closings on real estate for the benefit of the bank's customers, as a core part of the banking business, notwithstanding any other provision of law to the contrary.

3. In addition to the powers and authorities granted in subsection 1 of this section, every trust company created under the laws of this state shall be authorized and empowered to:

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(1) Receive money in trust and to accumulate the same at such rate of interest as may be obtained or agreed upon, or to allow such interest thereon as may be prescribed or agreed;

(2) Accept and execute all such trusts and perform such duties of every description as may be committed to it by any person or persons whatsoever, or any corporation, and act as assignee, receiver, trustee and depository, and to accept and execute all such trusts and perform such duties of every description as may be committed or transferred to it by order, judgment or decree of any courts of record of this state or other states, or of the United States;

(3) Take, accept and hold, by the order, judgment or decree of any court of this state, or of any other state, or of the United States, or by gift, grant, assignment, transfer, devise or bequest of any person or corporation, any real or personal property in trust, and to execute and perform any and all the legal and lawful trusts in regard to the same upon the terms, conditions, limitations and restrictions which may be declared, imposed, established or agreed upon in and by the order, judgment, decree, gift, grant, assignment, transfer, devise or bequest;

(4) Buy, invest in and sell all kinds of stocks or other investment securities;

(5) Execute, as principal or surety, any bond or bonds required by law to be given in any proceeding, in law or equity, in any of the courts of this state or other states, or of the United States;

(6) Act as trustee, personal representative, or conservator or in any other like fiduciary capacity;

(7) Act as attorney-in-fact or agent of any person or corporation, foreign or domestic, in the management and control of real or personal property, the sale or conveyance of same, the investment of money, and for any other lawful purpose.

4. (1) In addition to the powers and authorities granted in this section, the director of finance may, from time to time, with the approval of the state banking **and savings and loan** board, issue orders granting such other powers and authorities as have been granted to financial institutions subject to the supervision of the federal government to:

(a) State-chartered banks and trust companies which are necessary to enable such banks and trust companies to compete;

(b) State-chartered banks and trust companies to establish branches to the same extent that federal law permits national banks to establish branches;

(c) Subsidiaries of state-chartered banks and trust companies to the same extent powers are granted to national bank subsidiaries to enable such banks and trust companies to compete;

(d) State-chartered banks and trust companies to establish trust representative offices to the same extent national banks are permitted such offices.

(2) The orders shall be promulgated as provided in section 361.105 and shall not be inconsistent with the constitution and the laws of this state.

5. As used in this section, the term "subsidiary" shall include one or more business entities of which the bank or trust company is the owner, provided the owner's liability is limited by the investment in and loans to the subsidiary as otherwise provided for by law.

6. A bank or trust company to which authority is granted by regulation in subsection 4 of this section, based on the population of the political subdivision, may continue to exercise such authority for up to five years after the appropriate decennial census indicates that the population of the town in which such bank or trust company is located has exceeded the limits provided for by regulation pursuant to subsection 4 of this section.

**362.111. FEES AND SERVICE CHARGES PERMITTED, WHEN, CONDITIONS.** — A bank or trust company may impose fees or service charges on deposit accounts; however, such fees or service charges are subject to such conditions or requirements that may be fixed by regulations pursuant to section 361.105 by the director of the division of finance and the state banking **and savings and loan** board. Notwithstanding any law to the contrary, no such condition or

requirement shall be more restrictive than the fees or service charges on deposit accounts or similar accounts permitted any federally chartered depository institution.

**362.325. CHARTER AMENDED — PROCEDURE — NOTICE — DUTY OF DIRECTOR — APPEAL.** — 1. Any bank or trust company may, at any time, and in any amount, increase or, with the approval of the director, reduce its capital stock (as to its authorized but unissued shares, its issued shares, and its capital stock as represented by such issued shares), including a reduction of capital stock by reverse stock split, change its name, change or extend its business or the length of its corporate life, avail itself of the privileges and provisions of this chapter or otherwise change its articles of agreement in any way not inconsistent with the provisions of this chapter, with the consent of the persons holding a majority of the stock of the bank or trust company, which consent shall be obtained at an annual meeting or at a special meeting of the shareholders called for that purpose. A bank or trust company may, but shall not be obligated to, issue a certificate for a fractional share, and, by action of its board of directors, may in lieu thereof, pay cash equal to the value of the fractional share.

2. The meeting shall be called and notice given as provided in section 362.044.

3. If, at any time and place specified in the notice, stockholders shall appear in person or by proxy, in number representing not less than a majority of all the shares of stock of the bank or trust company, they shall organize by choosing one of the directors as chairman of the meeting, and a suitable person for secretary, and proceed to a vote of those present in person or by proxy.

4. If, upon a canvass of the vote at the meeting, it is ascertained that the proposition has carried, it shall be so declared by the president of the meeting and the proceedings entered of record.

5. When the full amount of the proposed increase has been bona fide subscribed and paid in cash to the board of directors of the bank or trust company or the change has been duly authorized, then a statement of the proceedings, showing a compliance with the provisions of this chapter, the increase of capital actually subscribed and paid up or the change shall be made out, signed and verified by the affidavit of the president and countersigned by the cashier, or secretary, and such statement shall be acknowledged by the president and one certified copy filed in the public records of the division of finance.

6. Upon the filing of the certified copy the director shall promptly satisfy himself or herself that there has been a compliance in good faith with all the requirements of the law relating to the increase, decrease or change, and when he or she is so satisfied he or she shall issue a certificate that the bank or trust company has complied with the law made and provided for the increase or decrease of capital stock, and the amount to which the capital stock has been increased or decreased or for the change in the length of its corporate life or any other change provided for in this section. Thereupon, the capital stock of the bank or trust company shall be increased or decreased to the amount specified in the certificate or the length of the corporate life of the bank shall be changed or other authorized change made as specified in the certificate. The certificate, or certified copies thereof, shall be taken in all the courts of the state as evidence of the increase, decrease or change.

7. Provided, however, that if the change undertaken by the bank or trust company in its articles of agreement shall provide for the relocation of the bank or trust company in another community, the director shall make or cause to be made an examination to ascertain whether the convenience and needs of the new community wherein the bank desires to locate are such as to justify and warrant the opening of the bank therein and whether the probable volume of business at the new location is sufficient to ensure and maintain the solvency of the bank and the solvency of the then existing banks and trust companies at the location, without endangering the safety of any bank or trust company in the locality as a place of deposit of public and private moneys, and, if the director, as a result of the examination, be not satisfied in the particulars mentioned or either of them, he or she may refuse to issue the certificate applied for, in which event he or she shall

forthwith give notice of his or her refusal to the bank applying for the certificate, which if it so desires may, within ten days thereafter, appeal from the refusal to the state banking **and savings and loan** board.

8. All certificates issued by the director of finance relating to amendments to the charter of any bank shall be provided to the bank or trust company and one certified copy filed in the public records of the division of finance.

9. The board of directors may designate a chief executive officer, and such officer will replace the president for purposes of this section.

**369.014. DEFINITIONS.** — As used in this chapter, unless the context clearly requires a different meaning, the following words and terms shall have the meanings indicated:

(1) "Account", the monetary interest of the owner thereof in the deposit capital of an association and consists of the withdrawal value of such interest;

(2) "Agency", a place of business other than the home office or a branch office at which an agent of the association transacts authorized business of the association;

(3) "Association", a savings and loan association or a savings association subject to the provisions of this chapter;

(4) **"Board", the state banking and savings and loan board established under chapter 361;**

(5) "Branch", a place of business other than the home office at which is transacted authorized business of the association;

[(5)] (6) "Capital", the capital stock and any other capital contributions in a capital stock association;

[(6)] (7) "Capital stock", shares of nonwithdrawable capital issued by a capital stock association which may be issued as permitted under chapter 351;

[(7)] (8) "Capital stock association", an association which issues capital stock;

[(8) "Commission", the state savings and loan commission;]

(9) "County" includes the city of St. Louis;

(10) "Deposit capital", the aggregate of deposits in accounts plus earnings credited thereto less lawful deductions therefrom;

(11) "Director of the division of finance", the chief officer of the division of finance;

(12) "Earnings", that part of the net income of an association which is payable to or credited to the owners of accounts. Earnings do not include capital stock, dividends paid or payable on capital stock or other distributions thereon. Earnings also may be referred to as interest;

(13) "Federal association" or "federal savings association", an association chartered by the Office of Thrift Supervision or any successor thereto as provided in section 5 of the Home Owners Loan Act of 1933, as amended;

(14) "Foreign association", any association or federal association with its principal office located outside Missouri;

(15) "Foreign holding company", any company or corporation authorized or existing under the laws of any jurisdiction or authority other than Missouri which directly or indirectly controls a foreign association;

(16) "Home office", the location named in the articles of incorporation or the new location in place thereof approved by the director of the division of finance. If no location is named in the articles of incorporation, the association shall file with the director of the division of finance the location of its home office;

(17) "Impaired condition", the inability of an association to pay its debts as they become due in the usual course of its business;

(18) "Insured association", an association the accounts of which are insured, fully or in part, as provided in this chapter;

(19) "Liquid assets", cash on hand and on deposit with banks including federal home loan banks and such other assets as may be so designated from time to time by the director of the division of finance;

(20) "Member", a person owning an account of a mutual association or a person borrowing from or assuming or obligated upon or owning property securing a loan held by a mutual association;

(21) "Mutual association", an association not having capital stock;

(22) "Office", any place at which business of the association is conducted on a regular and continuing basis;

(23) "Person", any individual, corporation, entity, voting trust, business trust, partnership, association, syndicate, or organized group of persons whether incorporated or not;

(24) "Security instrument", mortgage, deed of trust, or other instrument in which real or personal property is security for a debt;

(25) "Stockholder", a person owning capital stock of a capital stock association;

(26) "Withdrawal value", the amount deposited in an account in an association plus earnings credited thereto less lawful deductions therefrom.

**369.024. DIRECTOR TO APPROVE OR DENY PETITION — TENTATIVE APPROVAL — PROTEST, HOW FILED — FINAL APPROVAL, EFFECT OF.** — 1. Upon receipt of a petition for certificate of incorporation, the director of the division of finance shall, based upon the petition and all supporting information and upon such independent investigation and examination as the director may make, either refuse the petition or tentatively approve it. The petition shall be refused if the director of the division of finance finds that the proposed association is to be formed for any other than legitimate savings and loan purposes, or that the character and general fitness of the incorporators, or of the initial stockholders, if any, are not such as to command public confidence, or that the proposed directors and officers are not such as to tend to the success of the proposed association, or that the public convenience and advantage will not be promoted by its establishment, or that there is no public need for, or the volume of business in the location is insufficient to justify, another association. The refusal shall be in writing with the reasons therefor stated and shall be sent by registered mail to the chairman of incorporators.

2. If the director of the division of finance tentatively approves the petition, the director shall give written notice to each association and each federal association with an office in the county or in a county adjoining the county in which the proposed association is to be located, stating the name of the proposed association, where it proposes to establish the principal office of the association and that a petition for certificate of incorporation has been approved tentatively. Any association entitled to receive notice may within thirty days from the date of mailing of the notice make written protest to the director of the division of finance against the granting of the petition for incorporation. If no protest is filed within that time, the director of the division of finance shall make a final decision upon the petition either denying or granting the petition and notice thereof shall be sent by registered mail to the chairman of incorporators.

3. If a protest is filed, the director of the division of finance shall, if requested, and may on the director's own motion, conduct a hearing not less than ten nor more than thirty days following the end of the time for protest. Upon application of any party for good cause, or upon the director of the division of finance's own motion, the date of the hearing may be postponed. Notice shall be given stating the time and place of the hearing to the chairman of incorporators and to each protesting party. Any interested person may appear at the hearing in person or by counsel and offer any relevant evidence. Following the hearing the director of the division of finance shall deny or grant the petition and give written notice of the director's decision to all interested parties.

4. The petition shall not be granted, either with or without the hearing provided for in this section, except upon affirmative findings from all the evidence that the requirements of sections 369.010 to 369.369 have been complied with and that:

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- (1) The persons named in the petition are citizens of the United States of good character and responsibility; and
- (2) There is a necessity for the proposed association in the area to be served by it; and
- (3) There is a reasonable probability of usefulness and success of the proposed association; and
- (4) The proposed association can be established without undue injury to any properly conducted association or federal association.

5. The director of the division of finance may, either with or without the hearing provided for in this section, and the **state banking and savings and loan [commission] board** may upon an appeal from the ruling of the director of the division of finance, require as a condition of approving the petition that the proposed association obtain a firm commitment for insurance of its accounts from the Federal Deposit Insurance Corporation or any successor thereto or from any agency of this state insuring savings accounts or from any other insurer approved by the director of the division of finance.

6. If the petition is approved, the director of the division of finance shall, upon receipt of the sworn statement of the chairman of incorporators that the initial savings accounts and the expense fund provided for in sections 369.010 to 369.369 have been paid in full in cash, or, if a capital stock association, all subscriptions for capital stock have been paid in full, certify the approval of the petition in writing to the secretary of state and deliver to the secretary of state the incorporation fee and [two copies] **one copy** of the articles of incorporation. From the time of such approval, the association shall be subject to all provisions of sections 369.010 to 369.369 and to supervision and control by the director of the division of finance. The secretary of state shall thereupon issue the certificate of incorporation.

**369.144. POWERS OF AN ASSOCIATION.** — Each association incorporated pursuant to or operating under the provisions of sections 369.010 to 369.369 has all the powers enumerated, authorized, and permitted by sections 369.010 to 369.369 and such other rights, privileges, and powers as may be incidental to or reasonably necessary to exercise such powers granted herein. Among others, and except as otherwise limited by the provisions of sections 369.010 to 369.369, each association has the following powers:

- (1) To have perpetual existence; to adopt and use a corporate seal, which may be affixed by imprint, facsimile, or otherwise; and to adopt and amend bylaws as provided in sections 369.010 to 369.369;
- (2) To sue and be sued, complain and defend in any court of law or equity;
- (3) To acquire, hold, sell, dispose of and convey real and personal property; and to mortgage, pledge, or lease any real or personal property in the exercise of the powers granted herein; provided, however, that such leasing activities are limited to the extent permitted a federal association;
- (4) To borrow from sources, individual or corporate. All such loans and advances may be secured by property of the association, and may be evidenced by such notes, bonds, debentures, or other obligations or securities as the director of the division of finance may authorize for all associations;
- (5) To obtain and maintain insurance of its accounts by the Federal Deposit Insurance Corporation or any successor thereto, or by any agency of this state insuring accounts in associations, or by any other insurer approved by the director of the division of finance, and may comply with conditions necessary to obtain and maintain such insurance;
- (6) To qualify as and become a member of a Federal Home Loan Bank;
- (7) In addition to the powers and authorities granted in this section, the director of the division of finance may, from time to time, with the approval of the [commission] **state banking and savings and loan board**, issue regulations granting such other powers and authorities as have been granted to federal associations subject to the supervision of the Office of Thrift Supervision

or any successor thereto which are necessary to enable associations to compete. The regulations shall be promulgated as provided in this chapter and shall not be inconsistent with the constitution and laws of this state;

(8) To appoint officers, agents, and employees as its business shall require and to provide them suitable compensation; to enter into employment contracts not to exceed five years in duration; to provide for life, health and casualty insurance for officers, employees and directors who are not officers, and to adopt and operate reasonable bonus plans, retirement benefits and deferred compensation plans for such officers and employees; to adopt and operate stock option and similar incentive compensation programs by capital stock associations; and to provide for indemnification of its officers, employees and directors as prescribed or permitted by sections 369.010 to 369.369 whether by insurance or otherwise;

(9) To become a member of, deal with, or make reasonable payments or contributions to any organization to the extent that such organization assists in furthering or facilitating the association's purposes, powers or community responsibilities, and to comply with any reasonable conditions of eligibility;

(10) To sell money orders, travel checks and similar instruments drawn by it on its commercial bank accounts, accounts it has with the district Federal Home Loan Bank or as agent for any organization empowered to sell such instruments through agents within the state;

(11) When an association is a member of a Federal Home Loan Bank, to act as fiscal agent of the United States, and, when so designated by the Secretary of the Treasury, to perform, under such regulations as the Secretary may prescribe, all such reasonable duties as fiscal agents for the United States as the Secretary may require; and to act as agent for any instrumentality of the United States and as agent of this state or any instrumentality thereof;

(12) To service loans and investments for others;

(13) When an association is insured, to act as trustee of any trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan which qualifies or qualified for specific tax treatment under section 401(d) of the Internal Revenue Code of 1954 as amended, if the funds of such trust are invested only in accounts or deposits in such association or in obligations or securities issued by such association. All funds held in such fiduciary capacity by any such association may be commingled for appropriate purposes of investment, but individual records shall be kept by the fiduciary for each participant and shall show in proper detail all transactions engaged in under the authority of this subdivision;

(14) To act as agent for others in any transaction incidental to the operation of its business;

(15) To accept deposits, and to lend and invest its funds as provided in sections 369.010 to 369.369;

(16) To use abbreviations, words or symbols in connection with any document of any nature and on checks, proxies, notices and other instruments, which abbreviations, words, or symbols shall have the same force and legal effect as though the respective words and phrases for which they stand were set forth in full;

(17) To act as custodian or keeper of microfilm records of other savings associations or place microfilm records of the association for storage and safekeeping with another association;

(18) To make donations in reasonable amounts for the public welfare or for charitable, scientific, religious, or educational purposes;

(19) To act as agent for any electric, gas, water, telephone or other public utility company operating within this state in receiving moneys due such company for utility services furnished by such company;

(20) To enter into agreements with others to supply data processing services and for the use of data processing equipment owned or controlled by the association.

**369.159. FEE OR SERVICE CHARGE AUTHORIZED.** — An association may impose fees or service charges on accounts; however, such fees or service charges are subject to such conditions

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or requirements that may be fixed by regulations pursuant to section 369.301 by the director of the division of finance and the [state savings and loan commission] **board**. Notwithstanding any law to the contrary, no such condition or requirement shall be more restrictive than the fees or service charges on deposit accounts or similar accounts permitted any federally chartered depository institution.

**369.294. CERTAIN INTEREST IN AN ASSOCIATION BY DIRECTOR AND EXAMINERS PROHIBITED — INFORMATION TO BE CONFIDENTIAL, EXCEPTIONS.** — 1. The director of the division of finance and examiners shall not be interested in an association directly or indirectly either as creditor (except that each may be an account holder and receive earnings thereon), director, officer, employee, trustee, attorney or borrower (except for a loan on the home property owned and occupied by the director or examiner or a share loan), nor shall any one of them receive directly or indirectly any payment, compensation or gratuity from any association.

2. The director, the examiners and all employees of the division of finance and members of the [state savings and loan commission] **board** shall not divulge any information acquired in the discharge of their duties except insofar as required by law or order of court. The director may, however, furnish information to the Office of Thrift Supervision or any successor thereto, the Federal Deposit Insurance Corporation or any successor thereto, any federal home loan bank or savings departments of other states.

**369.299. POWERS AND DUTIES OF DIRECTOR.** — The director of the division of finance shall:

- (1) Exercise all rights, powers and duties set forth in sections 369.010 to 369.369 or as may be otherwise provided by law;
- (2) Establish, amend, supplement and revoke, subject to the approval of the [state savings and loan commission] **board**, all regulations authorized by the provisions of sections 369.010 to 369.369 and such additional regulations as may be reasonable or necessary to provide for the organization, incorporation, examination, operation, and regulation of associations, and service corporations, and the director may by regulation provide that an association shall have all powers, rights, and privileges which it would have from time to time if organized and operating in Missouri as a federal association under the laws of the United States. The director shall deliver by mail to each association a copy of any proposed regulation or change in an existing regulation. If five or more associations protest the proposed regulation or change and request a hearing thereon within fifteen days thereafter, the director shall conduct a hearing before acting thereon;
- (3) Direct and supervise all the activities of the office;
- (4) Exercise general supervision over all associations and all corporations which are owned in whole or in part by an association or associations;
- (5) Upon request of the governor make a report in writing to the governor on or before the first day of March as to the financial condition as of December thirty-first of the preceding year of each association;
- (6) Have charge of the execution of laws relating to savings associations with authority to sue in the director's name to enforce any law of this state applying to an association or to a corporation in which an association has an interest, or applying to the officers, directors or employees of any association.

**369.314. POWERS AND DUTIES OF BOARD.** — The [commission] **board** shall:

- (1) Approve or disapprove each regulation proposed by the director of the division of finance pertaining to savings and loan associations; and

(2) Hear and determine any appeal [from] **permitted by law, including but not limited to** an order or decision of the director pertaining to the incorporation, relocation or branching of savings and loan associations, **which shall be conducted as provided in chapter 361.**

**369.329. BRANCH OFFICES AND AGENCIES, APPROVAL REQUIRED, EXCEPTIONS — APPLICATION FOR APPROVAL, CONTENTS — APPROVAL, WHEN — HEARING, PROCEDURES.** — No association may establish or maintain a branch office or agency without the prior written approval of the director of the division of finance, except that temporary and incidental agencies may be created for individual transactions and for special temporary purposes without such approval. Each application for approval of the establishment and maintenance of a branch office or one or more agencies shall state the proposed location of the branch office or agency, the functions to be performed at the office or agency, the estimated volume of business at the branch office or agency, the estimated annual expense of the branch office or agency and the mode of payments for the branch office or agency and such additional matters as the director of the division of finance by regulation may require. Each such application shall be accompanied by a budget of the association for the current earnings period and for the next succeeding semiannual period, which reflects the estimated additional expense of the maintenance of each such branch office or agency. No branch application shall be granted if, in the opinion of the director or a majority of the members of the [commission] **board** on appeal, the policies, condition or operation of the applicant afford a basis for supervisory objection to the application. The director of the division of finance may hold a hearing at the director's discretion on the application in accordance with such procedures as the director by regulation may require.

**371.060. STATE BANKING AND SAVINGS AND LOAN BOARD TO DIRECT ISSUANCE OF CERTIFICATE OF INCORPORATION, WHEN.** — 1. Immediately upon the filing of the certificate of organization by the applicants, the director of finance shall submit to the state banking **and savings and loan** board the proposed articles of incorporation and the certificate of organization of the applicants and as soon as practicable thereafter the state banking **and savings and loan** board shall direct the director of finance to issue to the applicants a certificate of incorporation in such form as it may prescribe, if the board, from the best information available, determines that:

- (1) Public convenience and necessity require the development finance corporation;
- (2) The holders of the fully paid stock of the corporation are at least ten in number;
- (3) That not less than two hundred fifty shares of no par value stock issued at one hundred dollars per share have been subscribed and fully paid for in cash;
- (4) The bylaws and regulations submitted, if any, are in conformity with the articles of incorporation and the provisions of this chapter and not in conflict with any law of this state.

2. The director of finance shall return to the applicants one of the articles of incorporation submitted to him and shall endorse thereon the issuance by him of the certificate of incorporation.

**371.090. AMENDMENT OF ARTICLES, PROCEDURE — WHEN EFFECTIVE.** — 1. The articles of incorporation may be amended by a majority vote of the stockholders at any regular meeting or at a special meeting called for that purpose.

2. Articles of amendment signed by the president or vice president and attested by the secretary certifying to the amendment and its lawful adoption shall be executed, acknowledged and filed with the director of finance and, when approved by the state banking and savings and loan board, recorded with a certificate of the director of finance approving the articles of amendment, in the same manner as the original articles of incorporation. As soon as the director of finance issues his certificate of amendment the amendment is in effect.

**371.240. DISSOLUTION, WHEN AUTHORIZED — PROCEDURE.** — 1. Any corporation organized under this chapter, after the payment in full and cancellation of all its bonds and other obligations issued under the provisions of this chapter, or after the deposit in trust with the respective trustees designated in any deeds of trust given to secure the payment of any such obligation of a sum of money sufficient for the purpose, may dissolve by the vote of a majority of the stockholders at any regular meeting or at a special meeting called for that purpose.

2. A certificate of dissolution shall be signed by the president or vice president and attested by the secretary, certifying to the dissolution and that they have been authorized by lawful action of the stockholders to execute and file such certificate. The certificate of dissolution shall be executed, acknowledged and filed with the director of finance and, when approved by the state banking **and savings and loan** board, shall be recorded in the same manner as the original articles of incorporation. When the director has endorsed the approval of the state banking **and savings and loan** board on the certificate of dissolution the corporation is deemed to be dissolved.

3. The corporation shall, however, continue for the purpose of paying, satisfying and discharging any other existing liabilities or obligations and for collecting or liquidating its assets, and doing all other acts required to adjust and wind up its business and affairs, and may sue and be sued in its corporate name.

4. Any assets remaining after all liabilities and obligations have been satisfied shall be distributed pro rata among the stockholders of the corporation.

**536.310. AUTHORITY OF BOARD.** — 1. The board shall:

- (1) Provide state agencies with input regarding rules that adversely affect small businesses;
- (2) Solicit input and conduct hearings from small business owners and state agencies regarding any rules proposed by a state agency; and
- (3) Provide an evaluation report to the governor and the general assembly, including any recommendations and evaluations of state agencies regarding regulatory fairness for Missouri's small businesses. The report shall include comments from small businesses, state agency responses, and a summary of any public testimony on rules brought before the board for consideration.

2. In any inquiry conducted by the board because of a request from a small business owner, the board may make recommendations to the state agency. If the board makes recommendations, such recommendations shall be based on any of the following grounds:

- (1) The rule creates an undue barrier to the formation, operation, and expansion of small businesses in a manner that significantly outweighs the rule's benefits to the public; or
- (2) New or significant economic information indicates the proposed rule would create an undue impact on small businesses; or
- (3) Technology, economic conditions, or other relevant factors justifying the purpose for the rule has changed or no longer exists; or
- (4) If the rule was adopted after August 28, 2004, whether the actual effect on small businesses was not reflected in or significantly exceeded the small business impact statement submitted prior to the adoption of the rules.

**3. Subject to appropriations, by a majority vote of the board, the board may hire a one-half full-time equivalent employee for clerical support and a full-time equivalent employee with total salaries funded from the department of economic development appropriations up to one hundred fifty thousand dollars adjusted annually for inflation for professional positions to:**

- (1) Conduct internet website additions, corrections, and deletions;
- (2) Develop training programs for agencies;
- (3) Send regulatory alerts to interested small business subscribers;

(4) Track small business comments regarding agencies and review and respond to the agency and small business accordingly;

(5) Prepare for board meetings and hearings, including outreach, travel, agendas, and minutes;

(6) Prepare member maintenance expense reports and appointments;

(7) Analyze small business impact statements. After such analysis, the employee shall review such statements, offer suggestions, and work with agencies to meet the statute requirements;

(8) Analyze biannual report reviews;

(9) Conduct agency correspondence and training;

(10) Conduct small business outreach by speaking at chamber and association events;

(11) Review the Missouri Register and other sources to look for proposed rules that may affect small business.

4. Subject to appropriations, the board may receive additional funds for:

(1) Upkeep of its internet website;

(2) Information technology;

(3) Mileage for board members;

(4) Publication, printing, and distribution of annual reports;

(5) Outreach costs; and

(6) Expenses and equipment for the one and one half full time equivalent employee of the board.

5. A majority vote of the board members shall be required for the hiring, retention, and termination of board employees. All duties of board employees shall be dedicated solely to the support of and for the furtherance of the purpose and mission of the board.

**620.580. CITATION OF LAW.** — Sections 620.580 to 620.592 shall be known and may be cited as the "Missouri Community Service Act".

**620.582. DEFINITIONS.** — As used in sections 620.580 to 620.592, the following terms mean:

(1) "Act", the national and community service act of 1990, as amended;

(2) "Commission", the Missouri community service commission created by sections 620.580 to 620.592;

(3) "Community service programs", the performance of tasks designed primarily to address educational, public safety, human, or environmental needs at a local, regional, state, or multistate level;

(4) "Corporation", the corporation for national and community service authorized by the act;

(5) "National service position", a placement in a community service program whereby an individual may earn an educational award, as authorized by the act;

(6) "National service laws", the act and other federal legislation that authorizes or may authorize community service activities in states.

**620.584. COMMISSION ASSIGNED TO DEPARTMENT OF ECONOMIC DEVELOPMENT — PURPOSE OF COMMISSION.** — 1. The Missouri community service commission is assigned to the department of economic development.

2. The commission is established to make community service the common expectation and experience of all Missourians with a special concentration on Missouri's young people. The commission shall focus its efforts primarily on issues related to education, public safety, human needs and the environment.

3. The commission shall work to renew the ethic of civic responsibility in Missouri and to involve and enroll citizens in service opportunities that benefit Missouri while offering citizens skills that can be used to further their own plans for education, for a career, or for continuing community services. The commission shall build on the existing organizational framework of state, local, and community-based programs and agencies to expand full-time and part-time service opportunities for all citizens, but particularly Missouri's youth.

620.586. COMMISSION MEMBERS, TERMS, EXPENSES, OFFICERS, MEETINGS. — 1. The commission shall include at least fifteen, but no more than nineteen, voting members appointed by the governor with the advice and consent of the senate. The commission shall include the following voting members:

- (1) A representative of local government;
- (2) The commissioner of the department of elementary and secondary education or the designee of such person;
- (3) An individual with experience in promoting the involvement of older adults in service and volunteerism;
- (4) A representative of a national service program;
- (5) An individual with expertise in the educational, training, and development needs of youth, particularly disadvantaged youth;
- (6) An individual between the ages of sixteen and twenty-five years who is a participant in or supervisor of a service program for school age youth, or a campus-based or national service program;
- (7) A representative of community-based agencies or organizations in the state;
- (8) A representative of labor organizations;
- (9) A member representing the business community;
- (10) The lieutenant governor or his or her designee;
- (11) A representative of the volunteer sector; and
- (12) Between four and eight other members, appointed by the governor, provided that no more than twenty percent of the voting members are officers or employees of the state, and provided further that not more than fifty percent plus one of the voting members of the commission are members of the same political party.

2. The commission shall include at least one nonvoting, ex officio member who shall be a representative from the corporation for national and community service. The governor may appoint any number of other nonvoting, ex officio members who shall serve at the pleasure of the governor.

3. Appointments to the commission shall reflect the race, ethnicity, age, gender, and disability characteristics of the population of the state as a whole.

4. Voting members shall serve renewable terms of three years, except that of the first members appointed, one-third shall serve for a term of one year, one-third shall serve for a term of two years, and one-third shall serve for a term of three years. If a commission vacancy occurs, the governor shall appoint a new member to serve for the remainder of the unexpired term. Vacancies shall not affect the power of the remaining members to execute the commission's duties.

5. The members of the commission shall receive no compensation for their services on the commission, but shall be reimbursed for ordinary and necessary expenses incurred in the performance of their duties.

6. The voting members of the commission shall elect one of their members to serve as chairperson of the commission. The voting members may elect such other officers as deemed necessary.

7. The commission shall meet at least quarterly.

**620.588. COMMISSION POWERS AND DUTIES. — 1.** The commission shall have the following powers and duties:

(1) To ensure that its funding decisions meet all federal and state statutory requirements;

(2) To prepare for this state an annual national service plan that follows state and federal guidelines;

(3) To recommend innovative statewide service programs to increase volunteer participation and community-based problem solving by all age groups and among diverse participants;

(4) To utilize local, state, and federal resources to initiate, strengthen, and expand quality service programs;

(5) To promote interagency collaboration to maximize resources and develop a model of such collaboration on the state level;

(6) To oversee the application process to apply for corporation grants and funds, and for approval of service positions;

(7) To establish priorities, policies, and procedures for the use of funds received under national service laws and for funds deposited into the community service commission fund established in section 620.592;

(8) To provide technical assistance for applicants to plan and implement service programs and to apply for assistance under the national service laws;

(9) To solicit and accept gifts, contributions, grants, bequests, or other aid from any person, business, organization or foundation, public or private and from federal, state or local government or any agency of federal, state or local government.

**2.** The commission shall have other powers and duties in addition to those listed in subsection 1 of this section, including:

(1) To utilize staff within the department of economic development, the office of a designated statewide elected official or other executive departments as needed for this purpose; and

(2) To enter into contracts with individuals, organizations, and institutions within amounts available for this purpose.

**620.590. INFORMATION SHARING AND COOPERATION — COORDINATION OF EFFORT, WHEN. — 1.** All state agencies, the University of Missouri extension system, and any unit of local government, including school districts, may share information and cooperate with the commission to enable it to perform the functions assigned to it by state and federal law.

**2.** Any state agency that operates or plans to establish a community service program may coordinate its efforts with the commission.

**620.592. FUND CREATED, USE OF MONEYS — ANNUAL REPORT. — 1.** There is hereby created in the state treasury the "Community Service Commission Fund". The state treasurer shall deposit to the credit of the fund all moneys which may be appropriated to it by the general assembly and also any gifts, contributions, grants, bequests, or other aid received from federal, private, or other sources. The general assembly may appropriate moneys into the fund for the support of the commission and its activities. Notwithstanding the provisions of section 33.080 to the contrary, moneys in the fund shall not revert to the credit of the general revenue fund at the end of the biennium.

**2.** The commission shall submit an annual report of its activities to the speaker of the house of representatives, the president pro tem of the senate, and the governor before January thirty-first of each year.



**620.638. DEFINITIONS.** — As used in sections 620.635 to 620.653, the following terms mean:

(1) ["Board", the Missouri seed capital investment board, as established pursuant to section 620.641;

(2)] "Committed contributions", the total amount of qualified contributions that are committed to a qualifying fund by contractual agreement;

[(3)] (2) "Corporation", the Missouri technology corporation as established pursuant to section 348.251;

[(4)] (3) "Department", the department of economic development;

[(5)] (4) "Director", the director of the department of economic development;

[(6)] (5) "Follow-up capital", capital provided to a qualified business in which a qualified fund has previously invested seed capital or start-up capital. No more than forty percent of the qualified contributions to a qualified fund may be used for follow-up capital, and no qualified contributions which generate tax credits before the second round of allocations as authorized by section 620.650 shall be used for follow-up capital investments;

[(7)] (6) "Person", any individual, corporation, partnership, limited liability company or other entity, including any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143;

[(8)] (7) "Positive cash flow", total cash receipts from sales or services, but not from investments or loans, exceeding total cash expenditures as calculated on a fiscal year basis;

[(9)] (8) "Qualified business", any independently owned and operated business which is headquartered and located in Missouri and which is involved in or intends to be involved in commerce for the purpose of manufacturing, processing or assembling products, conducting research and development, or providing services in interstate commerce. Such a business shall maintain its headquarters in Missouri for a period of at least three years from the date of receipt of a qualified investment or be subject to penalties pursuant to section 620.017;

[(10)] (9) "Qualified contribution", cash contributions to a qualified fund pursuant to the terms of contractual agreements made between the qualified fund and a qualified economic development organization authorized by the [board] **corporation** to enter into such contracts;

[(11)] (10) "Qualified economic development organization", any corporation organized pursuant to the provisions of chapter 355 that, as of January 1, 1991, had obtained a contract with the department to operate an innovation center to promote, assist and coordinate the research and development of new services, products or processes in this state;

[(12)] (11) "Qualified fund", a fund established by any corporation, partnership, joint venture, unincorporated association, trust or other organization established pursuant to the laws of Missouri and approved by [the board or] the corporation;

[(13)] (12) "Qualified investment", any investment of seed capital, start-up capital or follow-up capital in a qualified business that does not cause more than ten percent of all the qualified contributions to a qualified fund to be invested in a single qualified business;

[(14)] (13) "Seed capital", capital provided to a qualified business for research, development and precommercialization activities to prove a concept for a new product, process or service, and for activities related thereto; provided that, seed capital shall not be provided to any business which in a past fiscal year has experienced a positive cash flow;

[(15)] (14) "Start-up capital", capital provided to a qualified business for use in preproduction product development, service development or initial marketing thereof; provided that, start-up capital shall not be provided to any business which has experienced a positive cash flow in a past fiscal year;

[(16)] (15) "Uninvested capital", that portion of any qualified contribution to a qualified fund, other than management fees not to exceed three percent per year of committed

contributions, qualified investments and other expenses or fees authorized by the [board] **corporation**, that is not invested as a qualified investment within ten years of its receipt.

**620.641. TRANSFER OF BOARD DUTIES TO MISSOURI TECHNOLOGY CORPORATION. —**

[There is hereby established the "Missouri Seed Capital Investment Board", to be composed of thirteen persons. One person shall be the director, or the director's designee, and each qualified economic development organization, not to exceed four, shall respectively be represented by one member appointed by each organization. Eight members shall be appointed by the governor with the advice and consent of the senate. Of these, one shall represent a major public research university located within the state, one shall represent a major private research university located within the state and the remaining six members shall have backgrounds in technology, banking, labor or small business development. The eight members appointed by the governor shall serve terms of three years; except that, of those first appointed, three shall serve for terms of three years, three for terms of two years and two for terms of one year. The members of the board shall annually elect one of its members who has been appointed by the governor as chairman of the board. At any meeting of the board, seven members must be present to constitute a quorum. The department shall provide support services necessary to carry out the duties of the board.] **The powers and duties of the Missouri Seed Capital Investment Board shall be transferred to the Missouri Technology Corporation effective August 28, 2011, and the Missouri Seed Capital Investment Board shall be dissolved.**

**620.644. DEVELOPMENT OF MISSOURI SEED CAPITAL AND COMMERCIALIZATION STRATEGY, REQUIRED CONTENTS — NO TAX CREDITS ISSUED UNTIL CORPORATION APPROVES STRATEGY TAX CREDIT MAXIMUM — CORPORATION TO APPROVE MANAGERS OF QUALIFIED FUNDS — RULEMAKING AUTHORITY, PROCEDURE — REPORTING REQUIREMENTS OF CORPORATION — QUALIFIED FUND TO PROVIDE ANNUAL AUDITED FINANCIAL STATEMENTS. —** 1. The Missouri seed capital and commercialization strategy shall be jointly developed and approved by the boards of directors of all of the qualified economic development organizations and submitted as one plan to the [board] **corporation** for its approval. The board shall not approve any qualified fund, exclusive of the fund approved by the corporation, unless such fund is described in the Missouri seed capital and commercialization strategy. The strategy shall include a proposal for the establishment and operation of between one and four qualified funds in Missouri, including the fund approved by the corporation pursuant to the provisions of section 620.653. The initial strategy shall be submitted to the board no later than July 1, 2000, and shall be approved or rejected by the board within three months of receipt. No tax credits authorized pursuant to the provisions of sections 620.635 to 620.653 shall be awarded until such strategy has been approved by the board, other than tax credits authorized for qualified contributions to the fund approved by the corporation.

2. The department shall authorize the use of up to twenty million dollars in tax credits by the approved qualified funds, in aggregate pursuant to the provisions of section 620.650, with not more than five million dollars of tax credits being issued in any one year.

3. The [board or] corporation shall approve the professional managers employed by the qualified funds according to criteria similar to that used by the U.S. Small Business Administration's Small Business Investment Corporation Program.

4. The department may promulgate any rules and regulations necessary to administer the provisions of sections 620.635 to 620.653. No rule or regulation or portion of a rule or regulation promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536.

5. The [Missouri seed capital investment board] **corporation** shall report the following to the department:

(1) As soon as practicable after the receipt of a qualified contribution the name of each person from which the qualified contribution was received, the amount of each contributor's qualified contribution and the tax credits computed pursuant to this section;

(2) On a quarterly basis, the amount of qualified investments made to any qualified business;

(3) On a quarterly basis, verification that the investment of seed capital, start-up capital, or follow-up capital in a qualified business does not direct more than ten percent of all the qualified contributions to a qualified fund to be invested in a single qualifying business.

6. Each qualified fund shall provide annual audited financial statements, including the opinion of an independent certified public accountant, to the department within ninety days of the close of the state fiscal year. The audit shall address the methods of operation and conduct of the business of the qualified economic development organization to determine compliance with the statutes and program and program rules and that the qualified contributions received by the qualified fund have been invested as required by this section.

**620.647. CORPORATION TO AUTHORIZE CONTRACTUAL AGREEMENTS FOR QUALIFIED ECONOMIC DEVELOPMENT ORGANIZATIONS — QUALIFIED FUNDS TO CONTRACT WITH AT LEAST ONE QUALIFIED ECONOMIC DEVELOPMENT ORGANIZATION, REQUIRED PROVISIONS — PAYMENT OF DISTRIBUTIONS TO QUALIFIED ECONOMIC DEVELOPMENT ORGANIZATIONS, USE OF PAYMENTS, RESTRICTIONS. —** 1. The [board or] corporation may authorize each qualified economic development organization to enter into contractual agreements with any qualified fund allowing such qualified fund to offer tax credits authorized pursuant to the provisions of sections 620.635 to 620.653 to those persons making qualified contributions to the qualified fund. The [board] **corporation** shall establish policies and procedures requiring each authorized qualified economic development organization to secure from each qualified fund and its investors the maximum fund equity interest possible, as dictated by market conditions, in exchange for the use of the tax credits. All tax credits authorized pursuant to sections 620.635 to 620.653 shall be administered by the department.

2. Each qualified fund shall enter into a contract with one or more qualified economic development organizations which shall entitle all qualified economic development organizations in existence at that time to receive and share equally all distributions of equity and dividends or other earnings of the fund that are generated as a result of any equity interest secured as a result of actions taken to comply with subsection 1 of this section. Such contracts shall require the qualified funds to transfer to the [board] **corporation** all distributions of dividends or other earnings of the fund that are owed to any qualified economic development organization that has dissolved or has ceased doing business for a period of one year or more.

3. All distributions of dividends, earnings, equity or the like owed pursuant to the provisions of sections 620.635 to 620.653 to a qualified economic development organization by any qualified fund shall be paid to the qualified economic development organization. The qualified economic development organization shall use such payments solely for reinvestment in qualified funds in order to provide ongoing seed capital, start-up capital and follow-up capital for Missouri businesses. No qualified economic development organization may transfer any dividends, earnings, equity or the like owed it pursuant to sections 620.635 to 620.653 to any other person or entity without the approval of the [board] **corporation**.

**620.650. PURPOSE OF QUALIFIED FUNDS — TAX CREDIT FOR QUALIFIED CONTRIBUTION TO QUALIFIED FUND, AMOUNT, APPLICATION, RESTRICTIONS — TAX ON QUALIFIED FUNDS UNINVESTED CAPITAL, AMOUNT, DISTRIBUTIONS DEEMED MADE AT END OF TAX YEAR. —** 1. The sole purpose of each qualified fund is to make investments. One hundred percent of investments made from qualified contributions shall be qualified investments.

2. Any person who makes a qualified contribution to a qualified fund shall receive a tax credit against the tax otherwise due pursuant to chapter 143, chapter 147, or chapter 148, other

than taxes withheld pursuant to sections 143.191 to 143.265, in an amount equal to one hundred percent of such person's qualified contribution.

3. Such person shall submit to the department an application for the tax credit on a form provided by the department. The department shall award tax credits in the order the applications are received and based upon the strategy approved by the [board] **corporation**. Tax credits issued pursuant to this section may be claimed for the tax year in which the qualified contribution is made or in any of the following ten years, and may be assigned, transferred or sold.

4. There is hereby imposed on each qualified fund a tax equal to fifteen percent of the qualified fund's uninvested capital at the close of such qualified fund's tax year. For purposes of tax computation, any distribution made by a qualified fund during a tax year is deemed made at the end of such tax year. Each tax year, every qualified fund shall remit the tax imposed by this section to the director of the department of revenue for deposit in the state treasury to the credit of the general revenue fund.

**620.653. CORPORATION TO APPROVE ONE QUALIFIED FUND — TRANSFER OF POWERS — CORPORATION TO APPROVE PROFESSIONAL FUND MANAGER FOR THE QUALIFIED FUND IT APPROVES.** — The provisions of sections 620.635 to 620.650 to the contrary notwithstanding, one qualified fund shall be approved by the corporation as soon as practicable after July 8, 1999. Such fund need not be initially incorporated into the seed capital and commercialization strategy until after the appointment of the board. After the appointment of the board, all powers exercised by the corporation in relation to that fund shall be transferred to the board. **After the dissolution of the board, all powers exercised by the board shall be transferred to the corporation.** The corporation shall approve the professional fund manager employed by the qualified fund established by this section.

**632.020. ADVISORY COUNCIL FOR COMPREHENSIVE PSYCHIATRIC SERVICES — MEMBERS, NUMBER, TERMS, QUALIFICATIONS, APPOINTMENT — ORGANIZATION, MEETINGS — DUTIES.** — 1. The Missouri advisory council for comprehensive psychiatric services, created by executive order of the governor on June 10, 1977, shall act as an advisory body to the division and the division director. The council shall be comprised of up to twenty-five members, the number to be determined under the council bylaws.

2. The members of the council shall be appointed by the director. Members shall serve for overlapping terms of three years each. The members of the existing council appointed under the provisions of the executive order shall serve the remainder of their appointed terms. At the expiration of the term of each such member, the director shall appoint an individual who shall hold office for a term of three years. Each member shall hold office until a successor has been appointed. Members shall have professional, research or personal interest in the prevention, evaluation, care, treatment and rehabilitation of persons affected by mental disorders and mental illness. The council shall include representatives from the following:

(1) Nongovernment organization or groups and state agencies concerned with the planning, operation or use of comprehensive psychiatric services;

(2) Representatives of consumers and providers of comprehensive psychiatric services who are familiar with the need for such services. At least one-half of the members shall be consumers. No more than one-fourth of the members shall be vendors or members of boards of directors, employees or officers of vendors, or any of their spouses, if such vendors receive more than fifteen hundred dollars under contract with the department; except that members of boards of directors of not-for-profit corporations shall not be considered members of board of directors of vendors under this subsection.

3. A vacancy occurring on the council shall be filled by appointment of the director.

4. Meetings shall be held at least every ninety days at the call of the division director or the council chairman, who shall be elected by the council.

5. Each member shall be reimbursed for reasonable and necessary expenses, including travel expenses pursuant to the travel regulations for employees of the department, actually incurred in the performance of his official duties.

6. The council may be divided into subcouncils in accordance with its bylaws. The council shall study, plan and make recommendations on the prevention, evaluation, care, treatment, rehabilitation, housing and facilities for persons affected by mental disorders and mental illness.

7. No member of a state advisory council may participate in or seek to influence a decision or vote of the council if the member would be directly involved with the matter or [if he] would derive income from it. A violation of the prohibition contained herein shall be grounds for a person to be removed as a member of the council by the director.

8. The council shall collaborate with the department in developing and administering a state plan for comprehensive psychiatric services. The council shall be advisory and shall:

(1) Promote meetings and programs for the discussion of reducing the debilitating effects of mental disorders and mental illness and disseminate information in cooperation with any other department, agency or entity on the prevention, evaluation, care, treatment and rehabilitation for persons affected by mental disorders or mental illness;

(2) Study and review current prevention, evaluation, care, treatment and rehabilitation technologies and recommend appropriate preparation, training, retraining and distribution of manpower and resources in the provision of services to persons affected by mental disorders or mental illness through private and public residential facilities, day programs and other specialized services;

(3) Recommend what specific methods, means and procedures should be adopted to improve and upgrade the department comprehensive psychiatric service delivery system for citizens of this state;

(4) Participate in developing and disseminating criteria and standards to qualify comprehensive psychiatric service residential facilities, day programs and other specialized services in this state for funding or licensing, or both, by the department;

**(5) Provide oversight for suicide prevention activities.**

**660.010. DEPARTMENT OF SOCIAL SERVICES CREATED — DIVISIONS AND AGENCIES ASSIGNED TO DEPARTMENT — DUTIES, POWERS — DIRECTOR'S APPOINTMENT.** — 1. There is hereby created a "Department of Social Services" in charge of a director appointed by the governor, by and with the advice and consent of the senate. All the powers, duties and functions of the director of the department of public health and welfare, chapters 191 and 192, and others, not previously reassigned by executive reorganization plan number 2 of 1973 as submitted by the governor under chapter 26 except those assigned to the department of mental health, are transferred by type I transfer to the director of the department of social services and the office of the director, department of public health and welfare is abolished. The department of public health and welfare is abolished. All employees of the department of social services shall be covered by the provisions of chapter 36 except the director of the department and his secretary, all division directors and their secretaries, and no more than three additional positions in each division which may be designated by the division director.

2. It is the intent of the general assembly in establishing the department of social services, as provided herein, to authorize the director of the department to coordinate the state's programs devoted to those unable to provide for themselves and for the rehabilitation of victims of social disadvantage. The director shall use the resources provided to the department to provide comprehensive programs and leadership striking at the roots of dependency, disability and abuse of society's rules with the purpose of improving service and economical operations. The department is directed to take all steps possible to consolidate and coordinate the field operations of the department to maximize service to the citizens of the state.

3. All the powers, duties and functions of the division of welfare, chapters 205, 207, 208, 209, and 210 and others, are transferred by type I transfer to the "Division of Family Services" which is hereby created in the department of social services. The director of the division shall be appointed by the director of the department. All references to the division of welfare shall hereafter be construed to mean the division of family services of the department of social services.

4. [All the powers, duties and functions of the board of nursing home administrators, chapter 344, are transferred by type I transfer to the department of social services. The public members of the board shall be appointed by the director of the department.

5.] The state's responsibility under public law 452 of the eighty-eighth Congress and others, pertaining to the Office of Economic Opportunity, is transferred by type I transfer to the department of social services.

[6.] 5. The state's responsibility under public law 73, Older Americans Act of 1965, of the eighty-ninth Congress is transferred by type I transfer to the department of social services.

[7.] 6. All the powers, duties and functions vested by law in the curators of the University of Missouri relating to crippled children's services, chapter 201, are transferred by type I transfer to the department of social services.

[8.] 7. All the powers, duties and functions vested in the state board of training schools, chapter 219 and others, are transferred by type I transfer to the "Division of Youth Services" hereby authorized in the department of social services headed by a director appointed by the director of the department. The state board of training schools shall be reconstituted as an advisory board on youth services, appointed by the director of the department. The advisory board shall visit each facility of the division as often as possible, shall file a written report with the director of the department and the governor on conditions they observed relating to the care and rehabilitative efforts in behalf of children assigned to the facility, the security of the facility and any other matters pertinent in their judgment. Copies of these reports shall be filed with the legislative library. Members of the advisory board shall receive reimbursement for their expenses and twenty-five dollars a day for each day they engage in official business relating to their duties. The members of the board shall be provided with identification means by the director of the division permitting immediate access to all facilities enabling them to make unannounced entrance to facilities they wish to inspect.

**[21.475. WETLANDS COMMITTEE CREATED, MEMBERS — CONTRACTS WITH CERTAIN ENTITIES, COMMITTEE APPROVAL, WHEN — HEARINGS, REIMBURSEMENT, STAFF ASSISTANCE. —** 1. Because wetlands are a vital natural resource and wetland conversion is of vital interest to Missouri farmers, conservationists, and landowners, for oversight of various activities of the department of natural resources and other agencies, the senate and the house of representatives shall establish a "Joint Committee on Wetlands", composed of five members of the senate, appointed by the president pro tem of the senate, and five members of the house of representatives, appointed by the speaker of the house. Not more than three members appointed by the president pro tem and not more than three members appointed by the speaker of the house shall be from the same political party. Any state department or agency except the department of conservation and the department of transportation shall obtain the approval of the joint committee on wetlands prior to entering into a contract with any entity of the government or any private entity to conduct any activity relating to the definition, preservation or restoration of wetlands. Each department, division and agency of state government shall provide any information relating to the state's wetlands to the joint committee on wetlands upon request of the committee.

2. The committee may hold hearings and conduct investigations within the state as it deems advisable, and the members shall receive no additional compensation, other than reimbursement for their actual and necessary expenses incurred in the performance

of their duties. The staff of the committee on legislative research, house research, and senate research shall provide necessary clerical, research, fiscal and legal services to the committee, as the committee may request.]

**[21.780. COMMITTEE TO REVIEW COUNTY SALARIES, MEMBERS, DUTIES. —** Every ten years after August 28, 1997, a review of county salaries shall be made by the general assembly. A committee consisting of three members of the house of representatives appointed by the speaker and three members of the senate appointed by the president pro tem shall carry out the review. The committee shall complete its review by December thirty-first of the year in which the committee is appointed. Legislation to revise the then existing salary schedules may be filed at the next following session of the general assembly.]

**[26.600. CITATION OF THE LAW. —** Sections 26.600 to 26.614 shall be known and may be cited as the "Missouri Community Service Act".]

**[26.603. DEFINITIONS. —** As used in sections 26.600 to 26.614, the following terms mean:

- (1) "Act", the national and community service act of 1990, as amended;
- (2) "Commission", the Missouri community service commission created by sections 26.600 to 26.614;
- (3) "Community service programs", the performance of tasks designed primarily to address educational, public safety, human, or environmental needs at a local, regional, state, or multistate level;
- (4) "Corporation", the corporation for national and community service authorized by the act;
- (5) "National service position", a placement in a community service program whereby an individual may earn an educational award, as authorized by the act;
- (6) "National service laws", the act and other federal legislation that authorizes or may authorize community service activities in states.]

**[26.605. COMMUNITY SERVICE COMMISSION CREATED IN OFFICE OF GOVERNOR — ASSIGNMENT POWERS OF GOVERNOR — PURPOSE. —** 1. There is hereby created and established within the office of the governor "The Missouri Community Service Commission". The governor may, by executive order, assign this commission to the office of any executive department or statewide elected official.

2. The commission is established to make community service the common expectation and experience of all Missourians with a special concentration on Missouri's young people. The commission shall focus its efforts primarily on issues related to education, public safety, human needs and the environment.

3. The commission shall work to renew the ethic of civic responsibility in Missouri and to involve and enroll citizens in service opportunities that benefit Missouri while offering citizens skills that can be used to further their own plans for education, for a career, or for continuing community services. The commission shall build on the existing organizational framework of state, local and community-based programs and agencies to expand full-time and part-time service opportunities for all citizens, but particularly Missouri's youth.]

**[26.607. MEMBERS OF COMMISSION, APPOINTMENT, QUALIFICATIONS — TERMS, VACANCIES — EXPENSES — CHAIRPERSON AND OFFICERS ELECTION —**

**MEETING REQUIREMENTS.** — 1. The commission shall include at least fifteen but no more than twenty-five voting members appointed by the governor, with the advice and consent of the senate. The commission shall include the following voting members:

- (1) A representative of local government;
- (2) The commissioner of the department of elementary and secondary education or the designee of such person;
- (3) An individual with experience in promoting the involvement of older adults in service and volunteerism;
- (4) A representative of a national service program;
- (5) An individual with expertise in the educational, training and development needs of youth, particularly disadvantaged youth;
- (6) An individual between the ages of sixteen and twenty-five years who is a participant in or supervisor of a service program for school age youth, or a campus-based or national service program;
- (7) A representative of community-based agencies or organizations in the state;
- (8) A representative of labor organizations;
- (9) A member representing the business community;
- (10) The lieutenant governor or his or her designee;
- (11) A representative from the Corporation for National and Community Service, who shall serve as a nonvoting, ex officio member;
- (12) Other members, at the discretion of and appointed by the governor, provided that there are at least fifteen but not more than twenty-five voting members, and provided that no more than twenty-five percent of the voting members are officers or employees of the state, and provided further that not more than fifty percent plus one of the voting members of the commission are members of the same political party;
- (13) The governor may appoint any number of other nonvoting, ex officio members who shall serve at the pleasure of the governor.

2. Appointments to the commission shall reflect the race, ethnicity, age, gender and disability characteristics of the population of the state as a whole.

3. Voting members shall serve renewable terms of three years, except that of the first members appointed, one-third shall serve for a term of one year, one-third shall serve for a term of two years, and one-third shall serve for a term of three years. If a commission vacancy occurs, the governor shall appoint a new member to serve for the remainder of the unexpired term. Vacancies shall not affect the power of the remaining members to execute the commission's duties.

4. The members of the commission shall receive no compensation for their services on the commission, but shall be reimbursed for ordinary and necessary expenses incurred in the performance of their duties.

5. The voting members of the commission shall elect one of their members to serve as chairperson of the commission. The voting members may elect such other officers as deemed necessary.

6. The commission shall meet at least quarterly.]

**[26.609. POWERS AND DUTIES OF COMMISSION.** — 1. The commission shall have the following powers and duties:

- (1) To ensure that its funding decisions meet all federal and state statutory requirements;
  - (2) To prepare for this state an annual national service plan that follows state and federal guidelines;
-



(3) To recommend innovative statewide service programs to increase volunteer participation and community-based problem solving by all age groups and among diverse participants;

(4) To utilize local, state and federal resources to initiate, strengthen and expand quality service programs;

(5) To promote interagency collaboration to maximize resources and develop a model of such collaboration on the state level;

(6) To oversee the application process to apply for corporation grants and funds, and for approval of service positions;

(7) To establish priorities, policies and procedures for the use of funds received under national service laws and for funds deposited into the community service commission fund established in section 26.614;

(8) To provide technical assistance for applicants to plan and implement service programs and to apply for assistance under the national service laws;

(9) To solicit and accept gifts, contributions, grants, bequests or other aid from any person, business, organization or foundation, public or private and from federal, state or local government or any agency of federal, state or local government.

2. The commission shall have other powers and duties in addition to those listed in subsection 1 of this section, including:

(1) To utilize staff within the office of the governor, the office of a designated statewide elected official or other executive departments as needed for this purpose; and

(2) To enter into contracts with individuals, organizations and institutions within amounts available for this purpose.]

**[26.611. COOPERATION OF ALL STATE AGENCIES, UNIVERSITY OF MISSOURI, SCHOOL DISTRICTS AUTHORIZED. —** 1. All state agencies, the University of Missouri extension system, and any unit of local government, including school districts, may share information and cooperate with the commission to enable it to perform the functions assigned to it by state and federal law.

2. Any state agency that operates or plans to establish a community service program may coordinate its efforts with the commission.]

**[26.614. COMMUNITY SERVICE COMMISSION FUND CREATED — FUNDING — PURPOSE — LAPSE INTO GENERAL REVENUE PROHIBITED — REPORT DUE WHEN. —**

1. There is hereby created in the state treasury the "Community Service Commission Fund". The state treasurer shall deposit to the credit of the fund all moneys which may be appropriated to it by the general assembly and also any gifts, contributions, grants, bequests or other aid received from federal, private or other sources. The general assembly may appropriate moneys into the fund for the support of the commission and its activities. Notwithstanding the provisions of section 33.080 to the contrary, moneys in the fund shall not revert to the credit of the general revenue fund at the end of the biennium.

2. The commission shall submit an annual report of its activities to the speaker of the house of representatives, the president pro tem of the senate, and the governor before January thirty-first of each year.]

**[32.250. MULTISTATE TAX COMPACT ADVISORY COMMITTEE — MEMBERSHIPS — DUTIES. —** There is hereby established the "Multistate Tax Compact Advisory Committee" composed of the member of the multistate tax commission representing this state, any alternate designated by him, the attorney general or his designee, and two members of the senate, appointed by the president pro tem thereof and

two members of the house of representatives, appointed by the speaker thereof. The chairman shall be the member of the commission representing this state. The committee shall meet on the call of its chairman or at the request of a majority of its members, but in any event it shall meet not less than three times in each year. The committee may consider any and all matters relating to recommendations of the multistate tax commission and the activities of the members in representing this state thereon.]

**[32.260. ADVISORY COMMITTEE MAY EMPLOY COUNSEL.** — The multistate tax compact advisory committee may employ counsel to represent it or to act for it, and may fix his compensation within the limits of funds appropriated to the committee.]

**[105.1010. COMMISSION, APPOINTMENT, TERMS — CHAIRMAN ELECTED — MEETINGS, EXPENSES.** — The Missouri state employees voluntary life insurance commission shall have five commissioners, including one member of the house of representatives to be selected by the speaker of the house, one member of the senate to be selected by the president pro tem of the senate, and three other commissioners to be appointed by the governor of the state of Missouri, with the advice and consent of the senate. The members of the general assembly appointed as commissioners shall serve during their terms of office in the general assembly. The commissioners appointed by the governor shall serve a term of three years; except that, of the commissioners first appointed, one shall be appointed for a term of one year, one shall be appointed for a term of two years, and one shall be appointed for a term of three years. The commission shall annually elect a chairman and shall be required to meet not less than quarterly or at any other such time as called by the chairman or a majority of the commission. The members of the commission shall receive no compensation for their services, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.]

**[166.200. CITATION OF LAW.** — Sections 166.200 to 166.242, sections 173.053 and 173.262 shall be known as the "Missouri Access to Higher Education Act".]

**[166.201. DEFINITIONS.** — As used in sections 166.200 to 166.242, sections 173.053 and 173.262, the following terms mean:

- (1) "Advance tuition payment contract", a contract entered into by the trust and a purchaser pursuant to the provisions of sections 166.200 to 166.242, sections 173.053 and 173.262 to provide for the higher education of a qualified beneficiary;
  - (2) "Board", the board of directors of the Missouri access to higher education trust;
  - (3) "Fund", the Missouri access to higher education trust fund created in section 166.207;
  - (4) "Pell grant", a federal grant for undergraduate students based on financial need and, for the purposes of sections 166.200 to 166.242, sections 173.053 and 173.262, determines financial need;
  - (5) "Purchaser", a person who makes or is obligated to make advance tuition payments pursuant to an advance tuition payment contract;
  - (6) "Qualified beneficiary", any resident of this state named as a beneficiary in an advance tuition payment contract;
  - (7) "State institution of higher education", any college, university, or community college supported in whole or in part out of state funds specifically appropriated for operations;
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(8) "Trust", the Missouri access to higher education trust created in section 166.203;

(9) "Tuition", any tuition or other fees charged by a state institution of higher education for attendance at that institution as a student by a resident of this state;

(10) "Weighted average tuition cost of state institutions of higher education", the tuition cost arrived at by adding the products of the annual undergraduate tuition cost at each state institution of higher education and its total number of undergraduate fiscal year equated students, and then dividing the gross total of this cumulation by the total number of undergraduate fiscal year equated students attending state institutions of higher education.]

**[166.203. TRUST ESTABLISHED — BOARD OF DIRECTORS, APPOINTMENT, QUALIFICATIONS, TERMS, VACANCIES, EXPENSES, APPOINTMENT OF CHAIRMAN, PRESIDENT AND VICE PRESIDENT, DUTIES — QUORUM — MEETINGS. —** 1. There is hereby created the "Missouri Access to Higher Education Trust", which shall be a body corporate and politic. The trust shall be located within the state office of administration, but shall exercise its prescribed powers, duties, and functions independently. The trust shall be governed by a board of directors which shall consist of ten members with knowledge, skill, and experience in the academic, business, or financial field appointed by the governor, by and with the advice and consent of the senate. Not more than three members of the board shall be, during their term of office on the board, either officials, appointees, or employees of this state, except that at least one member shall be appointed from a minority group. Of the remaining seven members appointed by the governor, one shall be appointed from a nominee of the speaker of the house of representatives, one shall be appointed from a nominee of the president pro tem of the senate, one shall be a president of a public four-year college or university, one shall be a president or chancellor of a public community college, one shall represent the interests of Missouri independent degree-granting colleges and universities, and one shall be the commissioner of higher education. Of these remaining seven members, at least one shall be a member of a minority group. Members shall be appointed for a term of three years; except that, of the members first appointed, three shall be appointed for a term of one year, three shall be appointed for a term of two years, and four shall be appointed for a term of three years. A member shall serve until a successor is appointed and qualified, and a vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment. The governor shall designate one member as chairperson. The governor shall also designate one member as the president and chief executive officer of the trust and one member as the vice president of the trust. Members of the board, other than the president and vice president if they are not otherwise employees of the state, shall receive no compensation, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

2. The board may delegate to its president, vice president, or other member such functions and authority as the board considers necessary or appropriate. These functions may include, but are not limited to, the oversight and supervision of employees of the trust.

3. A majority of the members of the board serving shall constitute a quorum for the transaction of business at a meeting of the board, or the exercise of a power or function of the trust, notwithstanding the existence of one or more vacancies. Voting upon action taken by the board shall be conducted by majority vote of the members present at a meeting of the board, and, if authorized by the bylaws of the board and when a quorum is present in person at the meeting, by use of amplified telephonic equipment. The board

shall meet at the call of the chair and as may be provided in the bylaws of the trust. Meetings of the board may be held anywhere within the state.]

**[166.205. POWERS OF BOARD — RULEMAKING PROCEDURE.** — 1. In addition to the powers granted by other provisions of sections 166.200 to 166.242, sections 173.053 and 173.262, the board shall have the powers necessary to carry out and effectuate the purposes, objectives, and provisions of sections 166.200 to 166.242, sections 173.053 and 173.262, the purposes and objectives of the trust, including, but not limited to the power to:

- (1) Pay money to state institutions of higher education from the trust;
- (2) Impose reasonable limits on the number of participants in the trust;
- (3) Contract for goods and services and engage personnel as is necessary and engage the services of private consultants, actuaries, managers, legal counsel, and auditors for rendering professional, management, and technical assistance and advice;
- (4) Solicit and accept gifts, grants, loans, and other aid from any person, firm or corporation or the federal, state, or local government or any agency of the federal, state, or a local government, or to participate in any other way in any federal, state, or local government program;
- (5) Charge, impose, and collect administrative fees and charges in connection with any transaction and provide for reasonable penalties, including default, for delinquent payment of fees or charges or for fraud;
- (6) Procure insurance against any loss in connection with the trust's property, assets, or activities;
- (7) Sue and be sued, to have a seal and alter the same at pleasure, to have perpetual succession, and to make and amend bylaws;
- (8) To make, execute, and deliver contracts, conveyances, and other instruments necessary or convenient to the exercise of its powers;
- (9) Enter into contracts on behalf of the state;
- (10) Administer the funds of the trust;
- (11) Indemnify or procure insurance indemnifying any member of the board from personal loss or accountability from liability resulting from a member's action or inaction as a member of the board, including but not limited to, liability asserted on any bonds or notes of the authority;
- (12) Impose reasonable time limits on use of the tuition benefits provided by the trust, if the limits are made a part of the contract;
- (13) Provide for receiving contributions in lump sums or periodic sums;
- (14) Promulgate reasonable rules and regulations and establish policies, procedures, and eligibility criteria to implement sections 166.200 to 166.242, sections 173.053 and 173.262.

2. No rule or portion of a rule promulgated under the authority of sections 166.200 to 166.242 and sections 173.053 and 173.262 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.]

**[166.207. TRUST FUND ESTABLISHED, PRIORITIES FOR EXPENDITURES UPON APPROPRIATION.** — There is hereby created in the state treasury a "Missouri Access to Higher Education Trust Fund" into which shall be deposited all funds accruing to the trust including payments received by the trust from purchasers on behalf of qualified beneficiaries and from which, upon appropriation, shall be paid all expenditures of the trust. The fund may be divided into separate accounts. Moneys accruing to and deposited in the trust fund shall not be a part of "total state revenues" as defined in sections 17 and 18 of article X of the Constitution of the state of Missouri and the

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expenditure of such revenue shall not be an expense of state government under section 20 of article X of the Constitution of the state of Missouri. The provisions of section 33.080 to the contrary notwithstanding, any unexpended balance in the Missouri access to higher education trust fund at the end of any biennium shall not be transferred and placed to the credit of the state general revenue fund. All interest or other increase earned from the investment of money in the trust fund shall be credited to and deposited to that fund. Unless otherwise provided by the board, money in the fund shall, upon appropriation, be expended in the following order of priority:

- (1) To make payments to state institutions of higher education on behalf of qualified beneficiaries;
- (2) To make refunds upon termination of an advance tuition payment contract;
- (3) To pay the costs of administration and organization of the trust and the fund.]

**[166.209. ACCOUNTING OF FUND REQUIRED WHEN, SUBMITTED TO WHOM — ANNUAL AUDITS BY STATE AUDITOR. —** The board shall annually prepare or cause to be prepared an accounting of the fund and shall transmit a copy of the accounting to the governor, the president pro tem of the senate, and the speaker of the house of representatives. The board shall also make available the accounting of the fund to purchasers of the trust. The accounts of the board shall be subject to annual audits by the state auditor.]

**[166.212. ADMINISTRATION OF TRUST TO BE ACTUARIALLY SOUND. —** 1. The fund shall be administered in a manner reasonably designed to be actuarially sound such that the assets of the trust shall be sufficient to defray the obligations of the trust.

2. In the accounting of the fund made pursuant to section 166.209, the board shall annually evaluate or cause to be evaluated by a nationally recognized actuary the actuarial soundness of the fund and determine the additional assets needed, if any, to defray the obligations of the trust. If there are not sufficient funds to ensure the actuarial soundness of the fund, the trust shall adjust payments of subsequent purchases to ensure its actuarial soundness.

3. If there are insufficient numbers of new purchasers to ensure the actuarial soundness of a plan of the trust, the available assets of the fund attributable to the plan shall be immediately prorated among the then existing contracts, and these shares shall be applied, at the option of the person to whom the refund is payable or would be payable under the contract upon termination of the contract, either towards the purposes of the contract for a qualified beneficiary or disbursed to the person to whom the refund is payable or would be payable under the contract upon termination of the contract.]

**[166.215. ADVANCE TUITION PAYMENT CONTRACTS, CONTENTS. —** 1. The trust on behalf of itself and the state, may contract with a purchaser for the advance payment of tuition by the purchaser for a qualified beneficiary to attend any of the state institutions of higher education to which the qualified beneficiary is admitted, without further tuition cost to the qualified beneficiary. In addition, an advance tuition payment contract shall set forth all of the following:

- (1) The amount of the payment or payments required from the purchaser on behalf of the qualified beneficiary;
- (2) The terms and conditions for making the payment, including, but not limited to, the date or dates upon which the payment, or portions of the payment, shall be due;
- (3) Provisions for late payment charges and for default;

(4) The name and age of the qualified beneficiary under the contract. The purchaser, with the approval of and on conditions determined by the trust, may subsequently substitute another person for the qualified beneficiary originally named;

(5) The number of credit hours or equivalent covered by the contract;

(6) The name of the person entitled to terminate the contract, which, as provided by the contract, may be the purchaser, the qualified beneficiary, or a person to act on behalf of the purchaser or qualified beneficiary, or any combination of these persons;

(7) The terms and conditions under which the contract may be terminated and the amount of the refund, if any, to which the person terminating the contract, or specifically the purchaser or designated qualified beneficiary if the contract so provides, shall be entitled upon termination;

(8) The assumption of a contractual obligation by the trust to the qualified beneficiary on its own behalf and on behalf of the state to provide for credit hours of higher education, not to exceed the credit hours required for the granting of a baccalaureate degree or the number of credit hours provided by the contract, whichever is less, at any state institution of higher education to which the qualified beneficiary is admitted. The advance tuition payment contract shall provide for the credit hours of higher education that a qualified beneficiary may receive under the contract if the qualified beneficiary is not entitled to in-state tuition rates;

(9) The period of time from the beginning to the end of which the qualified beneficiary may receive the benefits under the contract;

(10) Other terms, conditions, and provisions as the trust considers in its sole discretion to be necessary or appropriate.

2. The form of any advance tuition payment contract to be entered into by the trust shall first be approved by the attorney general.]

**[166.218. ARRANGEMENTS BETWEEN THE TRUST AND INSTITUTIONS OF HIGHER EDUCATION.** — The trust shall make any arrangements that are necessary or appropriate with state institutions of higher education in order to fulfill its obligations under advance tuition payment contracts, which arrangements may include, but need not be limited to, the payment by the trust of the then actual in-state tuition cost on behalf of a qualified beneficiary to the state institution of higher education.]

**[166.220. QUALIFIED BENEFICIARY MAY ATTEND COMMUNITY COLLEGE.** — An advance tuition payment contract shall provide that the trust provide for the qualified beneficiary to attend a community college in this state before entering another state institution of higher education for the purpose of completing a baccalaureate degree if the beneficiary so chooses and that the contract may be terminated pursuant to the provisions of sections 166.200 to 166.242, sections 173.053 and 173.262 after completing the requirements for a degree or certificate at the community college in this state or before entering the other state institution of higher education.]

**[166.222. TERMINATION OF CONTRACT, TRUST TO RETAIN PAYMENTS, WHEN.** — An advance tuition payment contract may provide that, if after a number of years specified in the contract the contract has not been terminated or the qualified beneficiary's rights under the contract have not been exercised, the trust shall retain the amounts otherwise payable and the rights of the qualified beneficiary, the purchaser, or the agent of either shall be considered terminated.]

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**[166.225. CONTRACTS PROVIDING FOR REFUND OF INVESTMENT INCOME UPON CANCELLATION, RESTRICTIONS. —** 1. The trust may offer contracts which provide for the refund of investment income attributable to the fund upon cancellation by the purchaser of the contract.

2. Contracts offered under this section may require that payment or payments from a purchaser, on behalf of a qualified beneficiary who may attend a state institution of higher education in less than four years after the date the contract is entered into by the purchaser, be based upon attendance at a certain state institution of higher education or at that state institution of higher education with the highest prevailing tuition cost for the number of credit hours covered by the contract.]

**[166.228. TERMINATION OF CONTRACTS, CONDITIONS — REFUNDS, WHEN, AMOUNT. —** 1. An advance tuition payment contract shall not authorize termination of the contract except when one of the following occurs:

- (1) The qualified beneficiary dies;
- (2) The qualified beneficiary is not admitted to a state institution of higher education after making proper application;
- (3) The qualified beneficiary certifies to the trust, after attaining the age of eighteen, that he or she has decided not to attend a state institution of higher education and requests, in writing that the advance tuition payment contract be terminated;
- (4) Other circumstances, determined by the trust and set forth in the advance tuition payment contract, occur.

2. An advance tuition payment contract may provide for a refund pursuant to this section to a person to whom the refund is payable under the contract upon termination of the contract. The refund may include all or a portion of the payment or payments made by the purchaser under the contract and all or a portion of the accrued investment income attributable to the payment or payments. However, except as provided in subsection 4 of this section, the amount of a refund shall not exceed the prevailing tuition cost on the date of termination for the credit hours covered by the state institution of higher education which charges the lowest rate of tuition. The amount of a refund shall be reduced by the amount transferred to a community college on behalf of a qualified beneficiary when the contract is terminated and by the amount transferred to a state institution of higher education on behalf of a qualified beneficiary. Termination of a contract and the right to receive a refund shall not be authorized under the contract if the qualified beneficiary has completed more than one-half of the credit hours required by the state institution of higher education for the awarding of a baccalaureate degree. However, this provision shall not affect the termination and refund rights of a graduate of a community college.

3. An advance tuition payment contract may authorize a person who is entitled under the advance tuition payment contract to terminate the contract, to direct payment of the refund to an independent degree-granting college or university in this state. If directed to make payments pursuant to this subsection, the trust shall transfer to the designated institution an amount equal to the tuition due for the qualified beneficiary, but the trust shall not transfer a cumulative amount greater than the refund to which the person is entitled. If the refund exceeds the total amount of transfers directed to the designated institution, the excess shall be returned to the person to whom the refund is otherwise payable.

4. The amount of a refund paid upon termination of the advance tuition payment contract by a person who directs the trust pursuant to subsection 3 of this section to transfer the refund to an independent degree-granting college or university located in this state shall not be greater than the weighted average tuition cost of state institutions of

higher education for the number of credit hours covered by the contract on the date of termination.]

**[166.231. RULINGS FROM INTERNAL REVENUE SERVICE AND SECURITIES AND EXCHANGE COMMISSION REQUIRED, WHEN — PURCHASERS TO BE INFORMED OF RULINGS, WHEN. —** An advance tuition payment contract shall not be entered by the trust until the trust has solicited answers from the United States Internal Revenue Service and the United States Securities and Exchange Commission rulings regarding the status of the trust. The trust shall inform purchasers of the rulings in question by these federal agencies prior to entering any such contract.]

**[166.233. ENFORCEMENT OF CONTRACTS, VENUE IN COLE COUNTY. —** State institutions of higher education, purchasers, qualified beneficiaries, holders of notes or bonds of the trust and others may enforce the provisions of sections 166.200 to 166.242, sections 173.053 and 173.262 and any contract, note or bond entered into pursuant to the provisions of sections 166.200 to 166.242, sections 173.053 and 173.262 by appropriate action brought in the circuit court of Cole County.]

**[166.235. MANAGEMENT SERVICE OF TRUST, CONTRACTS FOR. —** The trust, in its discretion, may contract with others, public or private, for the provision of all or a portion of the services necessary for the management and operation of the trust.]

**[166.237. ADMISSION OR GRADUATION NOT GUARANTEED TO ANY PERSON. —** Nothing in sections 166.200 to 166.242, sections 173.053 and 173.262 or in any advance tuition payment contract entered into pursuant to sections 166.200 to 166.242, sections 173.053 and 173.262 shall be construed as a promise or guarantee by the trust or the state of Missouri that a person will be admitted to a state institution of higher education or to a particular state institution of higher education, will be allowed to continue to attend a state institution of higher education after having been admitted, or will be graduated from a state institution of higher education.]

**[166.240. CONTRACT NOT SUBJECT TO REGULATION AS A SECURITY, MAY NOT BE TRANSFERRED WITHOUT PRIOR APPROVAL OF TRUST. —** An advance tuition payment contract is not a security subject to regulation by the state as such under the provisions of chapter 409. An advance tuition contract may not be sold or otherwise transferred by the purchaser or qualified beneficiary without the prior approval of the trust, which consent shall not be unreasonably withheld.]

**[166.242. PAYROLL DEDUCTIONS AUTHORIZED. —** The state or any state agency, county, municipality, or other political subdivision may, by contract or collective bargaining agreement, agree with any employee to remit payments toward advance payment contracts through payroll deductions made by the appropriate officer or officers of the state. Such payments shall be held and administered in accordance with the provisions of sections 166.200 to 166.242, sections 173.053 and 173.262.]

**[192.350. PAIN AND SYMPTOM MANAGEMENT ADVISORY COUNCIL CREATED, APPOINTMENT, QUALIFICATIONS, TERMS, VACANCIES, HOW FILLED. —** 1. There is hereby established within the department of health and senior services the "Missouri State Advisory Council on Pain and Symptom Management". The council shall consist



of nineteen members that are residents of this state. The members of the council shall include:

- (1) The director of the department of health and senior services, or the director's designee, who shall serve as chair of the council;
- (2) The state attorney general, or the attorney general's designee;
- (3) Two members of the senate, appointed by the president pro tempore of the senate;
- (4) Two members of the house of representatives, appointed by the speaker of the house of representatives;
- (5) One physician, appointed by the Missouri state board of registration for the healing arts, that is certified and accredited in pain management;
- (6) One physician, appointed by the Missouri state board of registration for the healing arts, that is certified and accredited in palliative care;
- (7) Two registered nurses, appointed by the Missouri board of nursing, with expertise in hospice, oncology, long-term care, or pain and symptom management and are certified by the National Board for Certification of Hospice and Palliative Nurses;
- (8) One dentist, appointed by the Missouri board of dentistry, with training in pain and symptom management and is associated with the education and training of dental students;
- (9) One pharmacist, appointed by the Missouri board of pharmacy, with training in pain and symptom management and is associated with the education and training of pharmacists;
- (10) One representative of the Pharmaceutical Research and Manufacturers of America, appointed by the governor, with the advice and consent of the senate;
- (11) One mental health services provider, appointed by the governor, with the advice and consent of the senate;
- (12) One physician assistant, appointed by the Missouri advisory commission for physician assistants, with training in pain and symptom management;
- (13) One chiropractic physician, appointed by the Missouri state board of chiropractic examiners, with training in pain and symptom management;
- (14) One physical therapist, appointed by the Missouri Physical Therapy Association, that specializes in pain management;
- (15) One advocate representing voluntary health organizations or advocacy groups with an interest in pain management, appointed by the governor, with the advice and consent of the senate; and
- (16) One member who has been diagnosed with chronic pain, appointed by the governor, with the advice and consent of the senate.

2. Members of the council shall be appointed by February 1, 2004. Of the members first appointed to the council, seven members shall serve a term of two years, and eight members shall serve a term of one year, and thereafter, members shall serve a term of two years. Members shall continue to serve until their successor is duly appointed and qualified. Any vacancy on the council shall be filled in the same manner as the original appointment.]

**[192.352. MEMBERS TO SERVE WITHOUT COMPENSATION — EXPENSES TO BE PAID — STAFF PROVIDED BY DEPARTMENT. —** 1. Members shall serve without compensation but shall, subject to appropriations, be reimbursed for reasonable and necessary expenses actually incurred in the performance of the member's official duties.

2. The department of health and senior services with existing resources shall provide administrative support and current staff as necessary for the effective operation of the council.]

**[192.355. MEETINGS OF COUNCIL HELD, WHEN, POWERS AND DUTIES — FUNDS AND GIFTS MAY BE ACCEPTED. —** 1. Meetings shall be held at least every ninety days or at the call of the council chair.

2. The advisory council shall:

(1) Hold public hearings pursuant to chapter 536 to gather information from the general public on issues pertaining to pain and symptom management;

(2) Make recommendations on acute and chronic pain management treatment practices;

(3) Analyze statutes, rules, and regulations regarding pain management;

(4) Study the use of alternative therapies regarding pain and symptom management and any sanctions imposed;

(5) Review the acute and chronic pain management education provided by professional licensing boards of this state;

(6) Examine the needs of adults, children, the terminally ill, racial and ethnic minorities, and medically underserved populations that have acute and chronic pain;

(7) Make recommendations on integrating pain and symptom management into the customary practice of health care professionals;

(8) Identify the roles and responsibilities of health care professionals in pain and symptom management;

(9) Make recommendations on the duration and content of continuing education requirements for pain and symptom management;

(10) Review guidelines on pain and symptom management issued by the United States Department of Health and Human Services;

(11) Provide an annual report on the activities of the council to the director of the department of health and senior services, the speaker of the house of representatives, the president pro tempore of the senate, and the governor by February first of every year. Such report shall include, but not be limited to the following:

(a) Issues and recommendations developed by the council;

(b) Pain management educational curricula and continuing education requirements for institutions providing health care education;

(c) Information regarding the impact and effectiveness of prior recommendations, if any, that have been implemented; and

(d) Review of current policies regarding pain and symptom management and any changes thereto occurring in pain and symptom management.

3. The department of health and senior services may accept on behalf of the council any federal funds, gifts, and donations from individuals, private organizations, and foundations, and any other funds that may become available.]

**[208.195. MEDICAL AND TECHNICAL ADVISORY COMMITTEE, APPOINTMENT, EXPENSES. —** The director of the division of family services shall appoint an advisory committee to provide professional and technical consultation in respect to the medical care aspects for public assistance recipients as set out in this chapter. The committee shall consist of twenty members, including the chairman of the senate committee of public health and welfare and chairman of the house of representatives committee of Social Security, and a minority member of each committee and at least three physicians licensed to practice in this state. The others shall be persons interested in hospital administration, nursing home administration, nursing, dentistry, optometry and pharmaceuticals. The members of the advisory committee shall receive no compensation for their services other than expenses actually incurred in the performance of their official duties.]

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**[208.792. ADVISORY COMMISSION ESTABLISHED, MEMBERS, DUTIES. — 1.**

There is hereby established the "Missouri Rx Plan Advisory Commission" within the department of social services to provide advice on the benefit design and operational policy of the Missouri Rx plan established in sections 208.782 to 208.798. The commission shall consist of the following fifteen members:

- (1) The lieutenant governor, in his or her capacity as advocate for senior citizens;
- (2) Two members of the senate, with one member from the majority party appointed by the president pro tem of the senate and one member of the minority party appointed by the president pro tem of the senate with the concurrence of the minority floor leader of the senate;
- (3) Two members of the house of representatives, with one member from the majority party appointed by the speaker of the house of representatives and one member of the minority party appointed by the speaker of the house of representatives with the concurrence of the minority floor leader of the house of representatives;
- (4) The director of the division of medical services in the department of social services;
- (5) The director of the division of senior and disability services in the department of health and senior services;
- (6) The chairperson of the governor's commission on special health, psychological and social needs of minority older individuals;
- (7) The following four members appointed by the governor, with the advice and consent of the senate:
  - (a) A licensed pharmacist;
  - (b) A licensed physician;
  - (c) A representative from a senior advocacy group; and
  - (d) A representative from an area agency on aging;
- (8) A representative from the pharmaceutical manufacturers industry as a nonvoting member appointed by the president pro tem of the senate and the speaker of the house of representatives;
- (9) One public member appointed by the president pro tem of the senate; and
- (10) One public member appointed by the speaker of the house of representatives.

In making the initial appointment to the committee, the governor, president pro tem, and speaker shall stagger the terms of the appointees so that four members serve initial terms of two years, four members serve initial terms of three years, four members serve initial terms of four years, and one member serves an initial term of one year. All members appointed thereafter shall serve three-year terms. All members shall be eligible for reappointment. The commission shall elect a chair and may employ an executive director and such professional, clerical, and research personnel as may be necessary to assist in the performance of the commission's duties.

2. Recognizing the unique medical needs of the senior African-American population, the president pro tem of the senate, speaker of the house of representatives, and governor will collaborate to ensure that there is adequate minority representation among legislative members and other members of the commission.

3. The commission:

- (1) May provide advice on guidelines, policies, and procedures necessary to establish the Missouri Rx plan;
- (2) Shall educate Missouri residents on quality prescription drug programs and cost-containment strategies in medication therapy;
- (3) Shall assist Missouri residents in enrolling or accessing prescription drug assistance programs for which they are eligible; and
- (4) Shall hold quarterly meetings and other meetings as deemed necessary.

4. The members of the commission shall receive no compensation for their service on the commission, but shall be reimbursed for ordinary and necessary expenses incurred in the performance of their duties as a member of the commission.]

**[260.725. ADVISORY COMMITTEE, APPOINTMENT, QUALIFICATIONS, TERMS, DUTIES.** — 1. There is hereby created within the department of natural resources the "Low-level Radioactive Waste Compact Advisory Committee". The committee shall consist of one representative of an institution of higher education, one representative of the general public, one representative of industry, one representative of a medical field, one member of the Missouri house of representatives, one member of the Missouri senate and Missouri's member on the midwest low-level radioactive waste compact commission. If Missouri is designated a host state for a regional disposal facility, the advisory committee shall be expanded to include a representative from the host county. Each member shall be appointed by the governor with the advice and consent of the senate, except that the member from the Missouri house of representatives shall be appointed by the speaker of the house and the member from the Missouri senate shall be appointed by the president pro tempore of the senate. Any representative of a host county shall be nominated by the county court of the host county and appointed by the governor. Each member shall serve for a term of four years with the first members' appointments staggered so that all members' terms do not expire simultaneously.

2. The advisory committee shall:

- (1) Act in an advisory capacity to Missouri's member on the commission;
- (2) Meet as necessary, but at least twice yearly, to review activities of the commission and midwest interstate low-level radioactive waste compact states; and
- (3) Present recommendations in writing to the governor and the general assembly as requested or as necessary to insure adequate exchange of information.]

**[286.200. GOVERNOR'S COUNCIL ON DISABILITY — MEMBERS, APPOINTMENT, TERMS, QUALIFICATIONS.** — 1. The "Governor's Committee on Employment of People with Disabilities" will hereafter be known as the "Governor's Council on Disability" and is hereby assigned to the department of labor and industrial relations.

2. The council shall consist of a chairperson, twenty members and an executive director.

3. The chairperson shall be appointed by the governor with the advice and consent of the senate. The members of the council shall be appointed by the governor. Recruitment and appointment of members to the council shall provide for representation of various ethnic, age, gender and physical and mental disability groups.

4. (1) The nine members of the governor's committee on the employment of people with disabilities whose terms of office expire in October of 1995 and the four members of the governor's committee on the employment of people with disabilities whose terms of office expire in October of 1997 shall be deemed members of the council on disability. Of the ten members of the committee on the employment of people with disabilities whose terms of office expired in October of 1993 and any vacancies on the committee on the employment of people with disabilities, only seven shall be appointed to the council;

(2) The terms of office for the chairperson and the seven council members first appointed after August 28, 1994, shall be as follows:

(a) The term of office for one of the initial new council members shall expire in October of 1995;

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(b) The terms of office for the chairperson and the other six initial council members shall expire in October of 1997, so that one-half of the members of the council may be chosen every second year.

5. The funds necessary for the executive director and such other personnel as necessary shall be appropriated through the department of labor and industrial relations. The executive director shall serve under the supervision of the committee chairman. The executive director shall be exempted from the state merit system.

6. All successor members shall be appointed for four-year terms. Vacancies occurring in the membership of the council for any reason shall be filled by appointment by the governor for the unexpired term. Upon expiration of their terms, members of the council shall continue to hold office until the appointment and qualification of their successors. No person shall be appointed for more than two consecutive terms, except that a person appointed to fill a vacancy may serve for two additional successive terms. The governor may remove a member for cause.

7. Members of the council shall be chosen to meet the following criteria:

(1) The majority of the council shall be comprised of people with disabilities, representing the various disability groups. The remaining positions shall be filled by family members of people with disabilities, persons who represent other disability-related groups, and other advocates. A person considered to have a disability shall meet the federal definition of disability as defined by P.L. 101-336;

(2) The council shall include at least one member from each congressional district;

(3) Members of the council shall be knowledgeable about disability-related issues and have demonstrated a commitment to full participation of people with disabilities in all aspects of community life.

8. The chairperson of the council shall serve without compensation but shall be reimbursed for actual and necessary travel and other expenses incurred in the performance of the duties as chairperson of the council on disability. The members of the council shall serve without compensation but may be reimbursed for their actual and necessary expenses incurred in attending all meetings provided for by sections 286.200 to 286.210.

9. The council shall meet at least once each calendar quarter to conduct its business. The executive director shall give written notice by mail to each member of the time and place of each meeting of the council at least ten days before the scheduled date of the meetings, and notice of any special meetings shall state the specific matters to be considered in the special meeting which is not a regular quarterly meeting.

10. The chairperson, with the advice and consent of the council, shall appoint an executive director who shall serve as a nonvoting member and executive officer of the council. The executive director shall serve under the supervision of the chairperson of the council. The executive director shall be a person who is knowledgeable about disability-related issues and has demonstrated a commitment to full participation of people with disabilities in all aspects of community life.

11. All information, documents, records and contracts of the committee on employment of people with disabilities shall become those of the council on disability.

12. The director of each state department shall designate at least one employee who shall act as a liaison with the council.]

**[286.205. DUTIES OF COUNCIL.—** The governor's council on disability shall:

(1) Act in an advisory capacity to all state agencies and have direct input to all divisions of the office of administration on policies and practices which impact people with disabilities. Input shall include policies and practices affecting personnel, purchasing, design and construction of new facilities, facilities management, budget and

planning and general services. In the administration of its duties, the governor's council on disability in cooperation with the office of administration shall offer technical assistance to help all departments, divisions and branches of state government comply with applicable state and federal law regarding persons with disabilities;

(2) Work and cooperate with other state commissions, councils or committees pertaining to disabilities and other national, state and local entities to create public policies and encourage system changes which eliminate barriers to people with disabilities;

(3) Advocate for public policies and practices which:

(a) Promote employment of people with disabilities;

(b) Expand opportunities in all aspects of life; and

(c) Promote awareness of and compliance with various federal, state and local laws dealing with disabilities;

(4) Gather input from disability-related organizations and the public on disability-related issues and report the results of this information in council reports to the governor;

(5) Accept grants, private gifts, and bequests, to be used to achieve the purposes of sections 286.200 to 286.210;

(6) Promulgate those bylaws necessary for the efficient operation of the council;

(7) Prepare an annual report to be presented to the governor not later than January first of each year.]

**[286.210. GOVERNOR'S COUNCIL ON DISABILITY MAY RECEIVE FUNDS AND PROPERTY.** — The governor's council on disability may receive funds and property by gift, devise, bequest or otherwise and may solicit funds to be used in carrying out the purposes of sections 286.200 to 286.210.]

**[302.136. MOTORCYCLE SAFETY PROGRAM ADVISORY COMMITTEE — MEMBERS, TERMS, QUALIFICATIONS — CHAIRMAN, HOW APPOINTED — MEETING — EXPENSES.** — The director shall by regulation establish the "Motorcycle Safety Program Advisory Committee" to assist in the development and implementation of the program. The committee shall consist of seven members and shall include members representing the motoring public, motorcycle dealerships, motorcycle instructors, law enforcement agencies, the motorcycle safety education program, and the department of public safety. Beginning on August 28, 1999, the governor shall appoint the members of the committee for terms of three years; except those first appointed by the governor, two shall be for terms of one year, two shall be for terms of two years and three shall be for terms of three years. The committee shall appoint a chairman and meet at least two times per year. Members shall serve without compensation, but may be reimbursed for their reasonable expenses incurred in the performance of their duties.]

**[324.600. DEFINITIONS.** — For the purposes of sections 324.600 to 324.635, the following terms mean:

(1) "Board", the board of licensed private fire investigator examiners;

(2) "Client", any person who engages the services of a private fire investigator;

(3) "Division", the division of fire safety within the department of public safety;

(4) "Insurance adjuster", any person who receives any consideration, either directly or indirectly, for adjusting in the disposal of any claim under or in connection with a policy of insurance or engaging in soliciting insurance adjustment business;

(5) "License", a private fire investigator license;

(6) "Licensed private fire investigation", the furnishing of, making of, or agreeing to make any investigation of a fire for the origin, cause, or responsibility of such fire;

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(7) "Licensed private fire investigator", any person who receives any consideration, either directly or indirectly, for engaging in the investigation of the origin, cause, or responsibility of fires;

(8) "Licensed private fire investigator agency", a person or firm that employs any person to engage in the investigation of fires to determine the origin, cause, and responsibility of such fires;

(9) "Organization", a corporation, trust, estate, partnership, cooperation, or association;

(10) "Person", an individual;

(11) "Principal place of business", the place where the licensee maintains a permanent office which may be a residence or business address.]

**[324.603. BOARD CREATED, MEMBERS, QUALIFICATIONS, TERMS, VACANCIES, EXPENSES. —** 1. The "Board of Licensed Private Fire Investigator Examiners" is hereby created within the division of fire safety. The board shall be composed of six members appointed by the governor, with the advice and consent of the senate. The board shall consist of:

(1) The state fire marshal, or his or her designee;

(2) A representative of a private fire investigation agency;

(3) A representative of the insurance industry;

(4) A representative of the Missouri chapter of the International Association of Arson Investigators;

(5) A representative of the Professional Fire and Fraud Investigators Association;

(6) A representative of the Kansas City Arson Task Force; and

(7) One person who is an independent private fire investigator.

2. Each member of the board shall be a citizen of the United States, a resident of this state, at least thirty years of age, and shall have been actively engaged in fire investigation for the previous five years. No more than one board member shall be employed by or affiliated with the same licensed private fire investigation agency. The initial board members shall not be required to be licensed but shall obtain a license within one hundred eighty days after appointment to the board.

3. The members of the board shall be appointed for terms of three years, except those first appointed, in which case two members shall be appointed for terms of three years, two members shall be appointed for terms of two years, and two members shall be appointed for a one-year term. Any vacancy on the board shall be filled for the remainder of the unexpired term of that member. The members of the board shall serve without pay, but they shall receive per diem expenses in an equivalent amount as allowed for members of the general assembly.]

**[324.606. EXEMPTIONS FROM LICENSURE REQUIREMENTS. —** The following persons or organizations shall not be deemed to be engaging in licensed private fire investigation:

(1) Any officer or employee of the United States, this state, or a political subdivision of this state, or an entity organized under section 320.300 while engaged in the performance of the officer's or employee's official duties;

(2) An attorney performing duties as an attorney;

(3) An investigator who is an employee of an insurance company;

(4) Insurers, agents, and insurance brokers licensed by the state, performing duties in connection with insurance transacted by them;

(5) An insurance adjuster; or

(6) An investigator employed by and under the supervision of a licensed attorney while acting within the scope of employment, who does not represent himself or herself to be a licensed private fire investigator.]

**[324.609. APPLICATION PROCEDURE, CONTENTS — QUALIFICATIONS OF APPLICANTS — CONDITIONS OF LICENSURE — DENIAL OF LICENSURE, WHEN — FEE — RENEWAL. —** 1. Every person desiring to be licensed in this state as a licensed private fire investigator or licensed private fire investigator agency shall make an application to the board. An application for a license pursuant to the provisions of sections 324.600 to 324.635 shall be on a form prescribed by the board and accompanied by the required application fee. An application shall be verified and shall include:

- (1) The full name and business address of the applicant;
- (2) The name that the applicant intends to do business under;
- (3) A statement as to the general nature of the business that the applicant intends to engage in;
- (4) Two recent passport photographs of the applicant and two classifiable sets of the applicant's fingerprints;
- (5) A verified statement of the applicant's experience qualifications; and
- (6) Such other information, evidence, statements, or documents as may be required by the state fire marshal.

2. To be eligible for licensure, the applicant shall:

- (1) Be at least twenty-one years of age;
- (2) Be a citizen of the United States;
- (3) Not have a felony conviction or a conviction of a crime involving moral turpitude;
- (4) Provide proof of liability insurance with amount to be no less than one million dollars in coverage; and
- (5) Comply with such other qualifications as the board shall require. For the purposes of sections 324.600 to 324.635, the record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction, and a plea or verdict of guilty is deemed to be a conviction within the meaning thereof.

3. The board shall require as a condition of licensure that the applicant:

- (1) Successfully complete a course of training approved by the state fire marshal's office;
- (2) Pass a written examination as evidence of knowledge of fire investigation. Certification as a fire investigator by the state fire marshal or other agencies approved by the state fire marshal shall constitute passing a written examination;
- (3) Provide a background check from an authorized state law enforcement agency. The board shall conduct a complete investigation of the background of each applicant for licensure as a licensed private fire investigator or agency to determine whether the applicant is qualified for licensure pursuant to sections 324.600 to 324.635; and
- (4) Pass any other basic qualification requirements as the board shall outline.

4. The board may deny a request for a license if the applicant has:

- (1) Committed any act that, if committed by a licensee, would be grounds for the suspension or revocation of a license pursuant to the provisions of sections 324.600 to 324.635;
  - (2) Been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere in a criminal prosecution under the laws of any state or the United States for any offense reasonably related to the qualifications, functions, or duties of any profession licensed or regulated under this chapter or for any offense an essential
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element of which is fraud, dishonesty, or an act of violence, or for any offense involving moral turpitude, whether or not a sentence is imposed;

(3) Been refused a license pursuant to the provisions of sections 324.600 to 324.635 or had a license revoked in this state or in any other state;

(4) Prior to being licensed, committed, aided, or abetted the commission of any act that requires a license pursuant to sections 324.600 to 324.635; and

(5) Knowingly made any false statement in the application.

5. Every application submitted pursuant to the provisions of sections 324.600 to 324.635 shall be accompanied by a fee as determined by the board as follows:

(1) A separate fee shall be paid for an individual license, agency license, and employees being licensed to work under an agency license; and

(2) If a license is issued for a period of less than two years, the fee shall be prorated for the months, or fraction thereof, for which the license is issued.

6. All fees required pursuant to this section shall be paid to and collected by the division of fire safety and transmitted to the department of revenue for deposit in the state general revenue fund. The board shall set fees at a level to produce revenue that will not substantially exceed or fail to cover the costs and expenses of administering sections 324.600 to 324.635. These fees shall be exclusive and no municipality may require any person licensed pursuant to sections 324.600 to 324.635 to furnish any bond or pass any examination to practice as a licensed private fire investigator.

7. Renewal of a license shall be made in the manner prescribed by the board, including the payment of a renewal fee.]

**[324.612. FORM OF LICENSE, CONTENTS — POSTING OF LICENSE — LICENSE CARD ISSUED. —** 1. The board shall determine the form of the license which shall include:

(1) The name of the licensee;

(2) The name under which the licensee is to operate; and

(3) The number and date of the license.

2. The license shall be posted at all times in a conspicuous place in the principal place of business of the licensee.

3. Upon the issuance of the license, a pocket card of such size, design, and content as determined by the board shall be issued to each licensee. Such card shall be evidence that the licensee is licensed pursuant to the provisions of sections 324.600 to 324.635. When any person to whom a card is issued terminates such person's position, office, or association with the licensee, the card shall be surrendered to the licensee and within five days thereafter shall be mailed or delivered by the licensee to the board for cancellation.]

**[324.615. AGENCY LICENSE REQUIREMENTS — LICENSEES RESPONSIBLE FOR CONDUCT OF EMPLOYEES AND AGENTS — MAINTAINING OF RECORDS. —** 1. The owner of a company seeking any agency license must first be licensed as a private fire investigator. The agency may hire individuals to work for the agency whom shall conduct investigations for such agency only. Persons hired shall make application as determined by the board and shall meet all requirements set forth by the board. They shall not be required to meet any experience requirements and shall be allowed to begin work immediately. Employees shall attend an approved training program within a time to be determined by the board and will be under the direct supervision of a licensed private fire investigator until all requirements are met.

2. A licensee shall at all times be legally responsible for the good conduct of each of the licensee's employees or agents while engaged in the business of the licensee. A licensee is legally responsible for any acts committed by the licensee's employees or

agents which are in violation of sections 324.600 to 324.635. A person receiving an agency license shall directly manage the agency and employees.

3. Each licensee shall maintain a record containing such information relative to the licensee's employees as may be prescribed by the board. Such licensee shall file with the board the complete address of the licensee's principal place of business including the name and number of the street. The board may require the filing of other information for the purpose of identifying such principal place of business.]

**[324.618. PROHIBITED ACTS. —** No licensee or officer, director, partner, associate, or employee of the licensee shall:

(1) Knowingly make any false report to his or her employer or client for whom information was being obtained;

(2) Cause any written report to be submitted to a client except by the licensee and the person submitting the report shall exercise diligence in ascertaining whether or not the facts and information in such report are true and correct;

(3) Use a title, wear a uniform, use an insignia or identification card, or make any statement with the intent to give an impression that such person is connected in any way with the federal or state government or any political subdivision of the federal or state government;

(4) Appear as an assignee party in any proceeding involving claim and delivery, replevin or other possessory action, action to foreclose a chattel mortgage, mechanic's lien, materialman's lien, or any other lien;

(5) Manufacture false evidence;

(6) Allow anyone other than the individual licensed by the state to conduct an investigation; or

(7) Assign or transfer a license issued pursuant to sections 324.600 to 324.635.]

**[324.621. ADVERTISEMENT REQUIREMENTS. —** 1. Every advertisement by a licensee soliciting or advertising business shall contain the licensee's name and address as they appear in the records of the board.

2. A licensee shall not advertise or conduct business from any address in this state other than that shown on the records of the board as the licensee's principal place of business unless the licensee has received a branch office certificate for such location after compliance with the provisions of sections 324.600 to 324.635 and such additional requirements necessary for the protection of the public as the board may prescribe by regulation. A licensee shall notify the board in writing within ten days after closing or changing the location of a branch office.]

**[324.624. SANCTIONING OF A LICENSE, WHEN — APPEAL PROCEDURE. —** 1. The board may deny a request for a license, or may suspend or revoke a license issued pursuant to sections 324.600 to 324.635, or censure or place a license on probation if, after notice and opportunity for hearing in accordance with the provisions of chapter 621, the board determines the licensee has:

(1) Made any false statement or given any false information in connection with an application for a license or a renewal or reinstatement thereof;

(2) Violated any provisions of sections 324.600 to 324.635;

(3) Violated any rule of the board adopted pursuant to the authority contained in sections 324.600 to 324.635;

(4) Been convicted of a felony or been convicted of a crime involving moral turpitude;

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(5) Impersonated, or permitted or aided and abetted an employee to impersonate, a law enforcement officer or employee of the United States, or of any state or political subdivision;

(6) Committed or permitted any employee to commit any act while the license was expired that could be cause for the suspension or revocation of any license, or grounds for the denial of an application for a license;

(7) Knowingly violated, or advised, encouraged, or assisted the violation of any court order or injunction in the course of business as a licensee;

(8) Used any letterhead, advertisement, or other printed matter or in any manner representing that such person is an instrumentality of the federal or state government or any political subdivision of a federal or state government;

(9) Used a name different from that under which such person is currently licensed in any advertisement, solicitation, or contact for business; or

(10) Committed any act that is grounds for denial of an application for a license pursuant to the provisions of sections 324.600 to 324.635.

2. Any person whose license status is affected by any official action of the state fire marshal or board of licensed private fire investigator examiners, including, but not limited to, revocation, suspension, failure to renew a license, or refusal to grant a license, may seek a determination by the administrative hearing commission pursuant to the provisions of section 621.045. After the filing of a complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 1 of this section, for disciplinary action are met, the board may singly or in combination censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years or may suspend, for a period not to exceed three years, or revoke the license.

3. A licensed private fire investigator agency may continue under the direction of another employee if the individual holding the license is suspended or revoked as approved by the board. The board shall establish a time from within which the licensed private fire investigator agency shall identify an acceptable person who is qualified to assume control of the agency as required by the board.]

**[324.627. BOARD MAY SUBPOENA PERSONS AND DOCUMENTS — ENFORCEMENT OF SUBPOENAS — AUTHORITY TO ADMINISTER OATHS. —** 1. For the purpose of enforcing the provisions of sections 324.600 to 324.635, or in making investigations relating to any violation thereof or to the character, competency, or integrity of the applicants or licensees, or for the purpose of investigating the business, business practices, or business methods of any applicant or licensee, or of the officers, directors, partners, or associates thereof, the board shall have the power to subpoena and bring before the board any person in this state and require the production of any books, records, or papers that the board deems relative to the inquiry. A subpoena issued pursuant to this section shall be governed by this state's rules of civil procedure.

2. Any person subpoenaed who fails to obey such subpoena without reasonable cause or who without such cause refuses to be examined or to answer any legal or pertinent question as to the character or qualifications of such applicant or licensee or such applicant's or licensee's business, business practices, or methods or such violations shall be guilty of a class A misdemeanor.

3. The board may administer an oath and take the testimony of any person, or cause such person's deposition to be taken, except that any applicant or licensee or officer, director, partner, or associate thereof shall not be entitled to any fees or mileage.

The testimony of witnesses in any investigative proceeding shall be under oath and willful. False swearing in such proceeding shall be perjury.]

**[324.630. RULES.** — 1. The board shall adopt such rules and regulations as may be necessary to carry out the provisions of sections 324.600 to 324.635.

2. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.]

**[324.635. FALSIFICATION OF FINGERPRINTS, PHOTOGRAPHS, OR INFORMATION, PENALTY.** — Any person who knowingly falsifies the fingerprints or photographs or other information requested to be submitted pursuant to sections 324.600 to 324.635 is guilty of a class D felony. Any person who violates any other provisions of sections 324.600 to 324.635 is guilty of a class A misdemeanor.]

**[324.1140. BOARD TO LICENSE PERSONS QUALIFIED TO TRAIN PRIVATE INVESTIGATORS, QUALIFICATIONS — APPLICATION PROCEDURE — CERTIFICATE GRANTED, WHEN — EXPIRATION OF CERTIFICATE.** — 1. The board of private investigator examiners shall license persons who are qualified to train private investigators.

2. Persons wishing to become licensed trainers shall make application to the board of private investigator examiners on a form prescribed by the board and accompanied by a fee determined by the board. The application shall contain a statement of the plan of operation of the training offered by the applicant and the materials and aids to be used and any other information required by the board.

3. A license shall be granted to a trainer if the board finds that the applicant:

(1) Has sufficient knowledge of private investigator business in order to train private investigators sufficiently;

(2) Has supplied all required information to the board; and

(3) Has paid the required fee.

4. The license issued under this section shall be valid for two years and shall be renewable biennially upon application and payment of the renewal fee established by the board. An application for renewal of license shall be mailed to every person to whom a license was issued or renewed during the current licensing period. The applicant shall complete the application and return it to the board by the renewal date with a renewal fee in an amount to be set by the board and with evidence of continuing education under section 324.1122. Any licensee who practices during the time the license has expired shall be considered engaging in prohibited acts under section 324.1104 and shall be subject to the penalties provided for the violation of the provisions of sections 324.1100 to 324.1148. If a person is otherwise eligible to renew the person's certification or license, the person may renew an expired certification or license within two years from the date of expiration. To renew such expired certificate or license, the person shall submit an application for renewal, pay the renewal fee, pay a delinquent renewal fee as established by the board, and present evidence in the form prescribed by the board of having completed the continuing education requirements for renewal specified in section 324.1122. Upon a finding of extenuating circumstances, the commission may waive the

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payment of the delinquent fee. If a person has failed to renew the person's license within two years of its expiration, the license shall be void.]

**[369.304. HEARINGS, HOW CONDUCTED.** — The procedure in all hearings before the director of the division of finance shall be governed by, and conducted under, the provisions of chapter 536. The director may grant a hearing on any matter but shall be required to do so only where so directed in sections 369.010 to 369.369. Unless otherwise specifically provided by sections 369.010 to 369.369, any person who deems himself or herself aggrieved by any decision, order, or action of the director may appeal such decision and may receive a hearing before the state savings and loan commission as provided in section 369.319. All decisions of the director shall be final if not appealed to the commission as provided in section 369.319.]

**[369.309. COMMISSION CREATED — MEMBERS, TERMS, COMPENSATION.** —

1. There is created in the division of finance a "State Savings and Loan Commission" which shall have such powers and duties as are now or hereafter conferred upon it by law.

2. The commission shall consist of five members who shall be appointed by the governor. They shall be residents of this state, and one of them shall be a member of the Missouri Bar in good standing. The other members of the commission shall each have had at least five years' experience in this state as an officer or director of one or more associations. Not more than three members of the commission shall be members of the same political party.

3. The term of office of each member of the commission shall be six years. Members shall serve until their successors are duly appointed and have qualified. Each member of the state savings and loan commission shall serve for the remainder of the term for which the member was appointed to the commission. The commission shall select its own chairman and secretary. Vacancies in the commission shall be filled for the unexpired term in the same manner as in the case of an original appointment.

4. The members of the commission shall receive as compensation the sum of fifty dollars per day while discharging their duties, and they shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

5. A majority of the members of the commission shall constitute a quorum and the decision of a majority of a quorum shall be the decision of the commission. The commission shall meet upon call of its chairman, or of the director of the division of finance, or of any two members of the commission, and may meet at any place in this state.]

**[369.319. APPEALS.** — An appeal shall be perfected by filing with the director of the division of finance within fifteen days after notice of the director's decision is mailed, a notice of appeal stating the name of the appealing party and the order or decision appealed from. The director shall mail copies thereof to all interested parties. Upon any such hearing the transcript of the proceedings before the director or, if the decision appealed from was made without a hearing, all writings used or considered by the director in making such decision, shall be considered by the commission and the commission may take evidence, the taking of such evidence to be limited to newly discovered evidence in those appeals in which there was a hearing before the director and to be governed by the provisions of chapter 536. The review by the commission shall be similar to that provided in appeals in equity cases in the courts of this state. Decisions shall be made as provided in chapter 536. The costs on appeal shall include the per diem compensation of the members of the commission and all such costs may be

assessed against parties other than the director as may be determined by the commission. At least fifteen days' notice of the hearing shall be given to all persons interested in the matter appealed from and to the director.]

**[630.900. STATE SUICIDE PREVENTION PLAN TO BE SUBMITTED TO GENERAL ASSEMBLY, WHEN — CONTENTS. —** 1. The director of the department of mental health, in partnership with the department of health and senior services and in collaboration with the departments of social services, elementary and secondary education, higher education, and corrections, and other appropriate agencies, organizations, and institutions in the community, shall design a proposed state suicide prevention plan using an evidence-based public health approach focused on suicide prevention.

2. The plan shall include, but not be limited to:

(1) Promoting the use of employee assistance and workplace programs to support employees with depression and other psychiatric illnesses and substance abuse disorders, and refer them to services. In promoting such programs, the director shall collaborate with employer and professional associations, unions, and safety councils;

(2) Promoting the use of student assistance and educational programs to support students with depression and other psychiatric illnesses and substance abuse disorders. In promoting such programs, the director shall collaborate with educators, administrators, students, and parents with emphasis on identification of the risk factors associated with suicide;

(3) Providing training and technical assistance to local public health and other community-based professionals to provide for integrated implementation of best practices for preventing suicides;

(4) Establishing a toll-free suicide prevention hotline; and

(5) Coordinating with federal, state, and local agencies to collect, analyze, and annually issue a public report on Missouri-specific data on suicide and suicidal behaviors.

3. The proposed state suicide prevention plan designed and developed pursuant to this section shall be submitted to the general assembly by December 31, 2004, and shall include any recommendations regarding statutory changes and implementation and funding requirements of the plan.]

**[630.910. SUICIDE PREVENTION ADVISORY COMMITTEE CREATED, MEMBERS, TERMS, MEETINGS, DUTIES. —** 1. There is hereby created within the department of mental health the "Suicide Prevention Advisory Committee" to be comprised of the following eighteen members:

(1) Six representatives from each of the following state departments: mental health, health and senior services, social services, elementary and secondary education, corrections, and higher education;

(2) Ten citizen members representing suicide survivors, the criminal justice system, the business community, clergy, schools, youth, mental health professionals, health care providers, nonprofit organizations, and a researcher to be appointed by the governor;

(3) One member from the house of representatives to be appointed by the speaker of the house of representatives; and

(4) One member of the senate to be appointed by the president pro tem of the senate.

2. The initial appointments to the advisory committee shall be made by October 1, 2005. The initial ten members appointed under subdivision (2) of subsection 1 of this section shall be appointed as follows: four members shall be appointed for a four-year

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term, three members shall be appointed for a three-year term, and three members shall be appointed for a two-year term.

3. The first meeting of the advisory committee shall be scheduled by the director of the department of mental health and held on or before December 1, 2005. The committee shall meet at least quarterly thereafter. The director of the department of mental health, or the director's designee, shall be the chair of the advisory committee. Each of the departments listed in subdivision (1) of subsection 1 of this section shall provide staff and technical support for the advisory committee.

4. The advisory committee shall:

(1) Provide oversight, technical support, and outcome promotion for prevention activities;

(2) Develop annual goals and objectives for ongoing suicide prevention efforts;

(3) Make information on prevention and mental health intervention models available to community groups implementing suicide prevention programs;

(4) Promote the use of outcome methods that will allow comparison and evaluation of the efficacy, effectiveness, cultural competence, and cost-effectiveness of plan-supported interventions, including making specific recording and monitoring instruments available for plan-supported projects;

(5) Review and recommend changes to existing or proposed statutes, rules, and policies to prevent suicides; and

(6) Coordinate and issue a biannual report on suicide and suicidal behaviors in the state using information drawn from federal, state, and local sources.

5. Members of the committee shall serve without compensation but the ten citizen members may be reimbursed for any actual expenses incurred in the performance of their duties as members of the advisory committee.]

**[630.915. FUNDING FOR PARTICIPATION IN THE NATIONAL VIOLENT DEATH REPORTING SYSTEM TO BE SOUGHT — STATE-BASED SYSTEM TO BE DEVELOPED, WHEN — USE OF INFORMATION — SUNSET PROVISION. —** 1. The department of mental health, in consultation with the department of health and senior services, shall seek funding from the Centers for Disease Control and Prevention to participate in the National Violent Death Reporting System (NVDRS) to obtain better information about violent deaths, including suicide.

2. If such funding under subsection 1 of this section is not available to the state of Missouri, on or before July 1, 2006, the department of mental health, in consultation with the department of health and senior services and subject to appropriation, shall develop a state-based reporting system based on the National Violent Death Reporting System that will provide information needed to accurately assess the factors causing violent deaths, including suicide.

3. Information obtained from this state's participation in the National Violent Death Reporting System under subsection 1 of this section or the state-based system developed under subsection 2 of this section shall be used to help answer questions regarding the magnitude, trends, and characteristics of violent deaths and assist in the evaluation and improvement of violence prevention policies and programs.

4. Information obtained under this section shall be provided to the suicide prevention advisory committee established under section 630.910.

5. Pursuant to section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after August 28, 2005, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.]

**[701.302. ADVISORY COMMITTEE ON LEAD POISONING ESTABLISHED — MEMBERS — REPORT, RECOMMENDATIONS — COMPENSATION. — 1.** There is hereby established the "Advisory Committee on Lead Poisoning". The members of the committee shall consist of twenty-seven persons who shall be appointed by the governor with the advice and consent of the senate, except as otherwise provided in this subsection. At least five of the members of the committee shall be African-Americans or representatives of other minority groups disproportionately affected by lead poisoning. The members of the committee shall include:

(1) The director of the department of health and senior services or the director's designee, who shall serve as an ex officio member;

(2) The director of the department of economic development or the director's designee, who shall serve as an ex officio member;

(3) The director of the department of natural resources or the director's designee, who shall serve as an ex officio member;

(4) The director of the department of social services or the director's designee, who shall serve as an ex officio member;

(5) The director of the department of labor and industrial relations or the director's designee, who shall serve as an ex officio member;

(6) One member of the senate, appointed by the president pro tempore of the senate, and one member of the house of representatives, appointed by the speaker of the house of representatives;

(7) A representative of the office of the attorney general, who shall serve as an ex officio member;

(8) A member of a city council, county commission or other local governmental entity;

(9) A representative of a community housing organization;

(10) A representative of property owners;

(11) A representative of the real estate industry;

(12) One representative of an appropriate public interest organization and one representative of a local public health agency promoting environmental health and advocating protection of children's health;

(13) A representative of the lead industry;

(14) A representative of the insurance industry;

(15) A representative of the banking industry;

(16) A parent of a currently or previously lead-poisoned child;

(17) A representative of the school boards association or an employee of the department of elementary and secondary education, selected by the commissioner of elementary and secondary education;

(18) Two representatives of the lead abatement industry, including one licensed lead abatement contractor and one licensed lead abatement worker;

(19) A physician licensed under chapter 334;

(20) A representative of a lead testing laboratory;

(21) A lead inspector or risk assessor;



- (22) The chief engineer of the department of transportation or the chief engineer's designee, who shall serve as an ex officio member;
- (23) A representative of a regulated industrial business; and
- (24) A representative of a business organization.
- 2. The committee shall make recommendations relating to actions to:
  - (1) Eradicate childhood lead poisoning by the year 2012;
  - (2) Screen children for lead poisoning;
  - (3) Treat and medically manage lead-poisoned children;
  - (4) Prevent lead poisoning in children;
  - (5) Maintain and increase laboratory capacity for lead assessments and screening, and a quality control program for laboratories;
  - (6) Abate lead problems after discovery;
  - (7) Identify additional resources, either through a tax or fee structure, to implement programs necessary to address lead poisoning problems and issues;
  - (8) Provide an educational program on lead poisoning for the general public and health care providers;
  - (9) Determine procedures for the removal and disposal of all lead contaminated waste in accordance with the Toxic Substances Control Act, as amended, 42 U.S.C. 2681, et seq., solid waste and hazardous waste statutes, and any other applicable federal and state statutes and regulations.
- 3. The committee members shall receive no compensation but shall, subject to appropriations, be reimbursed for actual and necessary expenses incurred in the performance of their duties. All public members and local officials shall serve for a term of two years and until their successors are selected and qualified, and other members shall serve for as long as they hold the office or position from which they were appointed.
- 4. No later than December fifteenth of each year, the committee shall provide a written annual report of its recommendations for actions as required pursuant to subsection 2 of this section to the governor and general assembly, including any legislation proposed by the committee to implement the recommendations.
- 5. The committee shall submit records of its meetings to the secretary of the senate and the chief clerk of the house of representatives in accordance with sections 610.020 and 610.023.]

Approved July 8, 2011

## HB 470 [SS SCS HCS HB 470 & 429]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

### **Changes the laws regarding the nonresident entertainer and professional athletic team member income tax**

AN ACT to repeal section 143.183, RSMo, and to enact in lieu thereof one new section relating to the nonresident entertainers tax.

#### SECTION

- A. Enacting clause.
- 143.183. Professional athletes and entertainers, state income tax revenues from nonresidents — transfers to Missouri arts council trust fund, Missouri humanities council trust fund, Missouri state library networking fund, Missouri public television broadcasting corporation special fund and Missouri historic preservation revolving fund.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Section 143.183, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 143.183, to read as follows:

**143.183. PROFESSIONAL ATHLETES AND ENTERTAINERS, STATE INCOME TAX REVENUES FROM NONRESIDENTS — TRANSFERS TO MISSOURI ARTS COUNCIL TRUST FUND, MISSOURI HUMANITIES COUNCIL TRUST FUND, MISSOURI STATE LIBRARY NETWORKING FUND, MISSOURI PUBLIC TELEVISION BROADCASTING CORPORATION SPECIAL FUND AND MISSOURI HISTORIC PRESERVATION REVOLVING FUND.** — 1. As used in this section, the following terms mean:

(1) "Nonresident entertainer", a person residing or registered as a corporation outside this state who, for compensation, performs any vocal, instrumental, musical, comedy, dramatic, dance or other performance in this state before a live audience and any other person traveling with and performing services on behalf of a nonresident entertainer, including a nonresident entertainer who is paid compensation for providing entertainment as an independent contractor, a partnership that is paid compensation for entertainment provided by nonresident entertainers, a corporation that is paid compensation for entertainment provided by nonresident entertainers, or any other entity that is paid compensation for entertainment provided by nonresident entertainers;

(2) "Nonresident member of a professional athletic team", a professional athletic team member who resides outside this state, including any active player, any player on the disabled list if such player is in uniform on the day of the game at the site of the game, and any other person traveling with and performing services on behalf of a professional athletic team;

(3) "Personal service income" includes exhibition and regular season salaries and wages, guaranteed payments, strike benefits, deferred payments, severance pay, bonuses, and any other type of compensation paid to the nonresident entertainer or nonresident member of a professional athletic team, but does not include prizes, bonuses or incentive money received from competition in a livestock, equine or rodeo performance, exhibition or show;

(4) "Professional athletic team" includes, but is not limited to, any professional baseball, basketball, football, soccer and hockey team.

2. Any person, venue, or entity who pays compensation to a nonresident entertainer shall deduct and withhold from such compensation as a prepayment of tax an amount equal to two percent of the total compensation if the amount of compensation is in excess of three hundred dollars paid to the nonresident entertainer. **For purposes of this section, the term "person, venue, or entity who pays compensation" shall not be construed to include any person, venue, or entity that is exempt from taxation under 26 U.S.C. Section 501(c)(3), as amended, and that pays an amount to the nonresident entertainer for the entertainer's appearance but receives no benefit from the entertainer's appearance other than the entertainer's performance.**

3. Any person, venue, or entity required to deduct and withhold tax pursuant to subsection 2 of this section shall, for each calendar quarter, on or before the last day of the month following the close of such calendar quarter, remit the taxes withheld in such form or return as prescribed by the director of revenue and pay over to the director of revenue or to a depository designated by the director of revenue the taxes so required to be deducted and withheld.

4. Any person, venue, or entity subject to this section shall be considered an employer for purposes of section 143.191, and shall be subject to all penalties, interest, and additions to tax provided in this chapter for failure to comply with this section.

5. Notwithstanding other provisions of this chapter to the contrary, the commissioner of administration, for all taxable years beginning on or after January 1, 1999, but none after December 31, 2015, shall annually estimate the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic

teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal year for a period of sixteen years, sixty percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri arts council trust fund, and shall be transferred from the general revenue fund to the Missouri arts council trust fund established in section 185.100 and any amount transferred shall be in addition to such agency's budget base for each fiscal year. The director shall by rule establish the method of determining the portion of personal service income of such persons that is allocable to Missouri.

6. Notwithstanding the provisions of sections 186.050 to 186.067 to the contrary, the commissioner of administration, for all taxable years beginning on or after January 1, 1999, but for none after December 31, 2015, shall estimate annually the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal year for a period of sixteen years, ten percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri humanities council trust fund, and shall be transferred from the general revenue fund to the Missouri humanities council trust fund established in section 186.055 and any amount transferred shall be in addition to such agency's budget base for each fiscal year.

7. Notwithstanding other provisions of section 182.812 to the contrary, the commissioner of administration, for all taxable years beginning on or after January 1, 1999, but for none after December 31, 2015, shall estimate annually the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal year for a period of sixteen years, ten percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri state library networking fund, and shall be transferred from the general revenue fund to the secretary of state for distribution to public libraries for acquisition of library materials as established in section 182.812 and any amount transferred shall be in addition to such agency's budget base for each fiscal year.

8. Notwithstanding other provisions of section 185.200 to the contrary, the commissioner of administration, for all taxable years beginning on or after January 1, 1999, but for none after December 31, 2015, shall estimate annually the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal year for a period of sixteen years, ten percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri public television broadcasting corporation special fund, and shall be transferred from the general revenue fund to the Missouri public television broadcasting corporation special fund, and any amount transferred shall be in addition to such agency's budget base for each fiscal year; provided, however, that twenty-five percent of such allocation shall be used for grants to public radio stations which were qualified by the corporation for public broadcasting as of November 1, 1996. Such grants shall be distributed to each of such public radio stations in this state after receipt of the station's certification of operating and programming expenses for the prior fiscal year. Certification shall consist of the most recent fiscal year financial statement submitted by a station to the corporation for public broadcasting. The grants shall be divided into two categories, an annual basic service grant and an operating grant. The basic service grant shall be equal to thirty-five percent of the total amount and shall be divided equally among the public radio stations receiving grants. The remaining amount shall be distributed as an operating grant to the stations on the basis of the proportion that the total operating expenses of the individual station in the prior fiscal year bears to the aggregate total of operating expenses for the same fiscal year for all Missouri public radio stations which are receiving grants.

9. Notwithstanding other provisions of section 253.402 to the contrary, the commissioner of administration, for all taxable years beginning on or after January 1, 1999, but for none after December 31, 2015, shall estimate annually the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal year for a period of sixteen years, ten percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri department of natural resources Missouri historic preservation revolving fund, and shall be transferred from the general revenue fund to the Missouri department of natural resources Missouri historic preservation revolving fund established in section 253.402 and any amount transferred shall be in addition to such agency's budget base for each fiscal year. As authorized pursuant to subsection 2 of section 30.953, it is the intention and desire of the general assembly that the state treasurer convey, to the Missouri investment trust on January 1, 1999, up to one hundred percent of the balances of the Missouri arts council trust fund established pursuant to section 185.100 and the Missouri humanities council trust fund established pursuant to section 186.055. The funds shall be reconveyed to the state treasurer by the investment trust as follows: the Missouri arts council trust fund, no earlier than January 2, 2009; and the Missouri humanities council trust fund, no earlier than January 2, 2009.

Approved July 1, 2011

HB 499 [HB 499]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Adds certain licensed professional counselors to the list of persons who can report anyone diagnosed or assessed with a condition that may prevent the safe operation of a motor vehicle**

AN ACT to repeal section 302.291, RSMo, and to enact in lieu thereof one new section relating to driver's license competency assessment, with an existing penalty provision.

**SECTION**

A. Enacting clause.

302.291. Incompetent or unqualified operators, director may require examination, when — report permitted, when, by whom, contents, immunity from liability — confidentiality, penalty — rules — appeal — reinstatement.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Section 302.291, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 302.291, to read as follows:

**302.291. INCOMPETENT OR UNQUALIFIED OPERATORS, DIRECTOR MAY REQUIRE EXAMINATION, WHEN — REPORT PERMITTED, WHEN, BY WHOM, CONTENTS, IMMUNITY FROM LIABILITY — CONFIDENTIALITY, PENALTY — RULES — APPEAL — REINSTATEMENT.**

— 1. The director, having good cause to believe that an operator is incompetent or unqualified to retain his or her license, after giving ten days' notice in writing by certified mail directed to such person's present known address, may require the person to submit to an examination as prescribed by the director. Upon conclusion of the examination, the director may allow the person to retain his or her license, may suspend, deny or revoke the person's license, or may issue the person a license

subject to restrictions as provided in section 302.301. If an examination indicates a condition that potentially impairs safe driving, the director, in addition to action with respect to the license, may require the person to submit to further periodic examinations. The refusal or neglect of the person to submit to an examination within thirty days after the date of such notice shall be grounds for suspension, denial or revocation of the person's license by the director, an associate circuit or circuit court. Notice of any suspension, denial, revocation or other restriction shall be provided by certified mail. As used in this section, the term "denial" means the act of not licensing a person who is currently suspended, revoked or otherwise not licensed to operate a motor vehicle. Denial may also include the act of withdrawing a previously issued license.

2. The examination provided for in subsection 1 of this section may include, but is not limited to, a written test and tests of driving skills, vision, highway sign recognition and, if appropriate, a physical and/or mental examination as provided in section 302.173.

3. The director shall have good cause to believe that an operator is incompetent or unqualified to retain such person's license on the basis of, but not limited to, a report by:

- (1) Any certified peace officer;
- (2) Any physician, physical therapist or occupational therapist licensed pursuant to chapter 334; any chiropractic physician licensed pursuant to chapter 331; any registered nurse licensed pursuant to chapter 335; any psychologist [or] , social worker **or professional counselor** licensed pursuant to chapter 337; any optometrist licensed pursuant to chapter 336; or
- (3) Any member of the operator's family within three degrees of consanguinity, or the operator's spouse, who has reached the age of eighteen, except that no person may report the same family member pursuant to this section more than one time during a twelve-month period. The report must state that the person reasonably and in good faith believes the driver cannot safely operate a motor vehicle and must be based upon personal observation or physical evidence which shall be described in the report, or the report shall be based upon an investigation by a law enforcement officer. The report shall be a written declaration in the form prescribed by the department of revenue and shall contain the name, address, telephone number, and signature of the person making the report.

4. Any physician, physical therapist or occupational therapist licensed pursuant to chapter 334, any chiropractor licensed pursuant to chapter 331, any registered nurse licensed pursuant to chapter 335, any psychologist [or] , social worker **or professional counselor** licensed pursuant to chapter 337, or any optometrist licensed pursuant to chapter 336 may report to the department any patient diagnosed or assessed as having a disorder or condition that may prevent such person from safely operating a motor vehicle. Such report shall state the diagnosis or assessment and whether the condition is permanent or temporary. The existence of a physician-patient relationship shall not prevent the making of a report by such medical professionals.

5. Any person who makes a report in good faith pursuant to this section shall be immune from any civil liability that otherwise might result from making the report. Notwithstanding the provisions of chapter 610 to the contrary, all reports made and all medical records reviewed and maintained by the department of revenue pursuant to this section shall be kept confidential except upon order of a court of competent jurisdiction or in a review of the director's action pursuant to section 302.311.

6. The department of revenue shall keep records and statistics of reports made and actions taken against driver's licenses pursuant to this section.

7. The department of revenue shall, in consultation with the medical advisory board established by section 302.292, develop a standardized form and provide guidelines for the reporting of cases and for the examination of drivers pursuant to this section. The guidelines shall be published and adopted as required for rules and regulations pursuant to chapter 536. The department of revenue shall also adopt rules and regulations as necessary to carry out the other provisions of this section. The director of revenue shall provide health care professionals and law enforcement officers with information about the procedures authorized in this section. The

guidelines and regulations implementing this section shall be in compliance with the federal Americans with Disabilities Act of 1990.

8. Any person who knowingly violates a confidentiality provision of this section or who knowingly permits or encourages the unauthorized use of a report or reporting person's name in violation of this section shall be guilty of a class A misdemeanor and shall be liable for damages which proximately result.

9. Any person who intentionally files a false report pursuant to this section shall be guilty of a class A misdemeanor and shall be liable for damages which proximately result.

10. All appeals of license revocations, suspensions, denials and restrictions shall be made as required pursuant to section 302.311 within thirty days after the receipt of the notice of revocation, suspension, denial or restriction.

11. Any individual whose condition is temporary in nature as reported pursuant to the provisions of subsection 4 of this section shall have the right to petition the director of the department of revenue for total or partial reinstatement of his or her license. Such request shall be made on a form prescribed by the department of revenue and accompanied by a statement from a health care provider with the same or similar license as the health care provider who made the initial report resulting in the limitation or loss of the driver's license. Such petition shall be decided by the director of the department of revenue within thirty days of receipt of the petition. Such decision by the director is appealable pursuant to subsection 10 of this section.

Approved June 17, 2011

## HB 506 [SCS HCS HB 506]

**EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.**

### **Changes the laws regarding property tax levies**

AN ACT to repeal sections 137.073, 137.082, and 238.202, RSMo, and to enact in lieu thereof three new sections relating to property tax levy revisions.

#### SECTION

A. Enacting clause.

137.073. Definitions — revision of prior levy, when, procedure — calculation of state aid for public schools, taxing authority's duties.

137.082. New construction, assessment of upon occupancy, how — payment of taxes, when — county assessor, duties — county option — natural disasters, assessment reduction allowed, effect.

238.202. Definitions.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Section 137.073, 137.082, and 238.202, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 137.073, 137.082, and 238.202, to read as follows:

**137.073. DEFINITIONS — REVISION OF PRIOR LEVY, WHEN, PROCEDURE — CALCULATION OF STATE AID FOR PUBLIC SCHOOLS, TAXING AUTHORITY'S DUTIES.** — 1. As used in this section, the following terms mean:

(1) "General reassessment", changes in value, entered in the assessor's books, of a substantial portion of the parcels of real property within a county resulting wholly or partly from

reappraisal of value or other actions of the assessor or county equalization body or ordered by the state tax commission or any court;

(2) "Tax rate", "rate", or "rate of levy", singular or plural, includes the tax rate for each purpose of taxation of property a taxing authority is authorized to levy without a vote and any tax rate authorized by election, including bond interest and sinking fund;

(3) "Tax rate ceiling", a tax rate as revised by the taxing authority to comply with the provisions of this section or when a court has determined the tax rate; except that, other provisions of law to the contrary notwithstanding, a school district may levy the operating levy for school purposes required for the current year pursuant to subsection 2 of section 163.021, less all adjustments required pursuant to article X, section 22 of the Missouri Constitution, if such tax rate does not exceed the highest tax rate in effect subsequent to the 1980 tax year. This is the maximum tax rate that may be levied, unless a higher tax rate ceiling is approved by voters of the political subdivision as provided in this section;

(4) "Tax revenue", when referring to the previous year, means the actual receipts from ad valorem levies on all classes of property, including state-assessed property, in the immediately preceding fiscal year of the political subdivision, plus an allowance for taxes billed but not collected in the fiscal year and plus an additional allowance for the revenue which would have been collected from property which was annexed by such political subdivision but which was not previously used in determining tax revenue pursuant to this section. The term "tax revenue" shall not include any receipts from ad valorem levies on any property of a railroad corporation or a public utility, as these terms are defined in section 386.020, which were assessed by the assessor of a county or city in the previous year but are assessed by the state tax commission in the current year. All school districts and those counties levying sales taxes pursuant to chapter 67 shall include in the calculation of tax revenue an amount equivalent to that by which they reduced property tax levies as a result of sales tax pursuant to section 67.505 and section 164.013 or as excess home dock city or county fees as provided in subsection 4 of section 313.820 in the immediately preceding fiscal year but not including any amount calculated to adjust for prior years. For purposes of political subdivisions which were authorized to levy a tax in the prior year but which did not levy such tax or levied a reduced rate, the term "tax revenue", as used in relation to the revision of tax levies mandated by law, shall mean the revenues equal to the amount that would have been available if the voluntary rate reduction had not been made.

2. Whenever changes in assessed valuation are entered in the assessor's books for any personal property, in the aggregate, or for any subclass of real property as such subclasses are established in section 4(b) of article X of the Missouri Constitution and defined in section 137.016, the county clerk in all counties and the assessor of St. Louis City shall notify each political subdivision wholly or partially within the county or St. Louis City of the change in valuation of each subclass of real property, individually, and personal property, in the aggregate, exclusive of new construction and improvements. All political subdivisions shall immediately revise the applicable rates of levy for each purpose for each subclass of real property, individually, and personal property, in the aggregate, for which taxes are levied to the extent necessary to produce from all taxable property, exclusive of new construction and improvements, substantially the same amount of tax revenue as was produced in the previous year for each subclass of real property, individually, and personal property, in the aggregate, except that the rate [may] **shall not exceed the greater of the most recent voter-approved rate or the most recent voter-approved rate as adjusted under subdivision (2) of subsection 5 of this section. Any political subdivision that has received approval from voters for a tax increase after August 27, 2008, may levy a rate to collect substantially the same amount of tax revenue as the amount of revenue that would have been derived by applying the voter-approved increased tax rate ceiling to the total assessed valuation of the political subdivision as most recently certified by the city or county clerk on or before the date of the election in which such increase is approved, increased by the percentage increase in the consumer price**

**index, as provided by law, except that the rate shall not exceed the greater of the most recent voter-approved rate or the most recent voter-approved rate as adjusted under subdivision (2) of subsection 5 of this section.** Such tax revenue shall not include any receipts from ad valorem levies on any real property which was assessed by the assessor of a county or city in such previous year but is assessed by the assessor of a county or city in the current year in a different subclass of real property. Where the taxing authority is a school district for the purposes of revising the applicable rates of levy for each subclass of real property, the tax revenues from state-assessed railroad and utility property shall be apportioned and attributed to each subclass of real property based on the percentage of the total assessed valuation of the county that each subclass of real property represents in the current taxable year. As provided in section 22 of article X of the constitution, a political subdivision may also revise each levy to allow for inflationary assessment growth occurring within the political subdivision. The inflationary growth factor for any such subclass of real property or personal property shall be limited to the actual assessment growth in such subclass or class, exclusive of new construction and improvements, and exclusive of the assessed value on any real property which was assessed by the assessor of a county or city in the current year in a different subclass of real property, but not to exceed the consumer price index or five percent, whichever is lower. Should the tax revenue of a political subdivision from the various tax rates determined in this subsection be different than the tax revenue that would have been determined from a single tax rate as calculated pursuant to the method of calculation in this subsection prior to January 1, 2003, then the political subdivision shall revise the tax rates of those subclasses of real property, individually, and/or personal property, in the aggregate, in which there is a tax rate reduction, pursuant to the provisions of this subsection. Such revision shall yield an amount equal to such difference and shall be apportioned among such subclasses of real property, individually, and/or personal property, in the aggregate, based on the relative assessed valuation of the class or subclasses of property experiencing a tax rate reduction. Such revision in the tax rates of each class or subclass shall be made by computing the percentage of current year adjusted assessed valuation of each class or subclass with a tax rate reduction to the total current year adjusted assessed valuation of the class or subclasses with a tax rate reduction, multiplying the resulting percentages by the revenue difference between the single rate calculation and the calculations pursuant to this subsection and dividing by the respective adjusted current year assessed valuation of each class or subclass to determine the adjustment to the rate to be levied upon each class or subclass of property. The adjustment computed herein shall be multiplied by one hundred, rounded to four decimals in the manner provided in this subsection, and added to the initial rate computed for each class or subclass of property. **For school districts that levy separate tax rates on each subclass of real property and personal property in the aggregate, if voters approved a ballot before January 1, 2011, that presented separate stated tax rates to be applied to the different subclasses of real property and personal property in the aggregate, or increases the separate rates that may be levied on the different subclasses of real property and personal property in the aggregate by different amounts, the tax rate that shall be used for the single tax rate calculation shall be a blended rate, calculated in the manner provided under subdivision (1) of subsection 6 of this section.** Notwithstanding any provision of this subsection to the contrary, no revision to the rate of levy for personal property shall cause such levy to increase over the levy for personal property from the prior year.

3. (1) Where the taxing authority is a school district, it shall be required to revise the rates of levy to the extent necessary to produce from all taxable property, including state-assessed railroad and utility property, which shall be separately estimated in addition to other data required in complying with section 164.011, substantially the amount of tax revenue permitted in this section. In the year following tax rate reduction, the tax rate ceiling may be adjusted to offset such district's reduction in the apportionment of state school moneys due to its reduced tax rate. However, in the event any school district, in calculating a tax rate ceiling pursuant to this section,



requiring the estimating of effects of state-assessed railroad and utility valuation or loss of state aid, discovers that the estimates used result in receipt of excess revenues, which would have required a lower rate if the actual information had been known, the school district shall reduce the tax rate ceiling in the following year to compensate for the excess receipts, and the recalculated rate shall become the tax rate ceiling for purposes of this section.

(2) For any political subdivision which experiences a reduction in the amount of assessed valuation relating to a prior year, due to decisions of the state tax commission or a court pursuant to sections 138.430 to 138.433, or due to clerical errors or corrections in the calculation or recordation of any assessed valuation:

(a) Such political subdivision may revise the tax rate ceiling for each purpose it levies taxes to compensate for the reduction in assessed value occurring after the political subdivision calculated the tax rate ceiling for the particular subclass of real property or for personal property, in the aggregate, in a prior year. Such revision by the political subdivision shall be made at the time of the next calculation of the tax rate for the particular subclass of real property or for personal property, in the aggregate, after the reduction in assessed valuation has been determined and shall be calculated in a manner that results in the revised tax rate ceiling being the same as it would have been had the corrected or finalized assessment been available at the time of the prior calculation;

(b) In addition, for up to three years following the determination of the reduction in assessed valuation as a result of circumstances defined in this subdivision, such political subdivision may levy a tax rate for each purpose it levies taxes above the revised tax rate ceiling provided in paragraph (a) of this subdivision to recoup any revenues it was entitled to receive had the corrected or finalized assessment been available at the time of the prior calculation.

4. (1) In order to implement the provisions of this section and section 22 of article X of the Constitution of Missouri, the term "improvements" shall apply to both real and personal property. In order to determine the value of new construction and improvements, each county assessor shall maintain a record of real property valuations in such a manner as to identify each year the increase in valuation for each political subdivision in the county as a result of new construction and improvements. The value of new construction and improvements shall include the additional assessed value of all improvements or additions to real property which were begun after and were not part of the prior year's assessment, except that the additional assessed value of all improvements or additions to real property which had been totally or partially exempt from ad valorem taxes pursuant to sections 99.800 to 99.865, sections 135.200 to 135.255, and section 353.110 shall be included in the value of new construction and improvements when the property becomes totally or partially subject to assessment and payment of all ad valorem taxes. The aggregate increase in valuation of personal property for the current year over that of the previous year is the equivalent of the new construction and improvements factor for personal property. Notwithstanding any opt-out implemented pursuant to subsection 15 of section 137.115, the assessor shall certify the amount of new construction and improvements and the amount of assessed value on any real property which was assessed by the assessor of a county or city in such previous year but is assessed by the assessor of a county or city in the current year in a different subclass of real property separately for each of the three subclasses of real property for each political subdivision to the county clerk in order that political subdivisions shall have this information for the purpose of calculating tax rates pursuant to this section and section 22, article X, Constitution of Missouri. In addition, the state tax commission shall certify each year to each county clerk the increase in the general price level as measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor publications, as defined and officially reported by the United States Department of Labor, or its successor agency. The state tax commission shall certify the increase in such index on the latest twelve-month basis available on February first of each year over the immediately preceding prior twelve-month period in order that political subdivisions shall have this information available in setting their tax rates according to law and section 22 of article X of the Constitution of Missouri. For purposes of implementing the provisions of this section and section 22 of article X

of the Missouri Constitution, the term "property" means all taxable property, including state-assessed property.

(2) Each political subdivision required to revise rates of levy pursuant to this section or section 22 of article X of the Constitution of Missouri shall calculate each tax rate it is authorized to levy and, in establishing each tax rate, shall consider each provision for tax rate revision provided in this section and section 22 of article X of the Constitution of Missouri, separately and without regard to annual tax rate reductions provided in section 67.505 and section 164.013. Each political subdivision shall set each tax rate it is authorized to levy using the calculation that produces the lowest tax rate ceiling. It is further the intent of the general assembly, pursuant to the authority of section 10(c) of article X of the Constitution of Missouri, that the provisions of such section be applicable to tax rate revisions mandated pursuant to section 22 of article X of the Constitution of Missouri as to reestablishing tax rates as revised in subsequent years, enforcement provisions, and other provisions not in conflict with section 22 of article X of the Constitution of Missouri. Annual tax rate reductions provided in section 67.505 and section 164.013 shall be applied to the tax rate as established pursuant to this section and section 22 of article X of the Constitution of Missouri, unless otherwise provided by law.

5. (1) In all political subdivisions, the tax rate ceiling established pursuant to this section shall not be increased unless approved by a vote of the people. Approval of the higher tax rate shall be by at least a majority of votes cast. When a proposed higher tax rate requires approval by more than a simple majority pursuant to any provision of law or the constitution, the tax rate increase must receive approval by at least the majority required.

(2) When voters approve an increase in the tax rate, the amount of the increase shall be added to the tax rate ceiling as calculated pursuant to this section to the extent the total rate does not exceed any maximum rate prescribed by law. If a ballot question presents a stated tax rate for approval rather than describing the amount of increase in the question, the stated tax rate approved shall be adjusted as provided in this section and, so adjusted, shall be the current tax rate ceiling. The increased tax rate ceiling as approved shall be adjusted such that when applied to the current total assessed valuation of the political subdivision, excluding new construction and improvements since the date of the election approving such increase, the revenue derived from the adjusted tax rate ceiling is equal to the sum of: the amount of revenue which would have been derived by applying the voter-approved increased tax rate ceiling to total assessed valuation of the political subdivision, as most recently certified by the city or county clerk on or before the date of the election in which such increase is approved, increased by the percentage increase in the consumer price index, as provided by law. Such adjusted tax rate ceiling may be applied to the total assessed valuation of the political subdivision at the setting of the next tax rate. If a ballot question presents a phased-in tax rate increase, upon voter approval, each tax rate increase shall be adjusted in the manner prescribed in this section to yield the sum of: the amount of revenue that would be derived by applying such voter-approved increased rate to the total assessed valuation, as most recently certified by the city or county clerk on or before the date of the election in which such increase was approved, increased by the percentage increase in the consumer price index, as provided by law, from the date of the election to the time of such increase and, so adjusted, shall be the current tax rate ceiling.

(3) The governing body of any political subdivision may levy a tax rate lower than its tax rate ceiling and may, in a nonreassessment year, increase that lowered tax rate to a level not exceeding the tax rate ceiling without voter approval in the manner provided under subdivision (4) of this subsection. Nothing in this section shall be construed as prohibiting a political subdivision from voluntarily levying a tax rate lower than that which is required under the provisions of this section or from seeking voter approval of a reduction to such political subdivision's tax rate ceiling.

(4) In a year of general reassessment, a governing body whose tax rate is lower than its tax rate ceiling shall revise its tax rate pursuant to the provisions of subsection 4 of this section as if its tax rate was at the tax rate ceiling. In a year following general reassessment, if such governing

body intends to increase its tax rate, the governing body shall conduct a public hearing, and in a public meeting it shall adopt an ordinance, resolution, or policy statement justifying its action prior to setting and certifying its tax rate. The provisions of this subdivision shall not apply to any political subdivision which levies a tax rate lower than its tax rate ceiling solely due to a reduction required by law resulting from sales tax collections. The provisions of this subdivision shall not apply to any political subdivision which has received voter approval for an increase to its tax rate ceiling subsequent to setting its most recent tax rate.

6. (1) For the purposes of calculating state aid for public schools pursuant to section 163.031, each taxing authority which is a school district shall determine its proposed tax rate as a blended rate of the classes or subclasses of property. Such blended rate shall be calculated by first determining the total tax revenue of the property within the jurisdiction of the taxing authority, which amount shall be equal to the sum of the products of multiplying the assessed valuation of each class and subclass of property by the corresponding tax rate for such class or subclass, then dividing the total tax revenue by the total assessed valuation of the same jurisdiction, and then multiplying the resulting quotient by a factor of one hundred. Where the taxing authority is a school district, such blended rate shall also be used by such school district for calculating revenue from state-assessed railroad and utility property as defined in chapter 151 and for apportioning the tax rate by purpose.

(2) Each taxing authority proposing to levy a tax rate in any year shall notify the clerk of the county commission in the county or counties where the tax rate applies of its tax rate ceiling and its proposed tax rate. Each taxing authority shall express its proposed tax rate in a fraction equal to the nearest one-tenth of a cent, unless its proposed tax rate is in excess of one dollar, then one/one-hundredth of a cent. If a taxing authority shall round to one/one-hundredth of a cent, it shall round up a fraction greater than or equal to five/one-thousandth of one cent to the next higher one/one-hundredth of a cent; if a taxing authority shall round to one-tenth of a cent, it shall round up a fraction greater than or equal to five/one-hundredths of a cent to the next higher one-tenth of a cent. Any taxing authority levying a property tax rate shall provide data, in such form as shall be prescribed by the state auditor by rule, substantiating such tax rate complies with Missouri law. All forms for the calculation of rates pursuant to this section shall be promulgated as a rule and shall not be incorporated by reference. The state auditor shall promulgate rules for any and all forms for the calculation of rates pursuant to this section which do not currently exist in rule form or that have been incorporated by reference. In addition, each taxing authority proposing to levy a tax rate for debt service shall provide data, in such form as shall be prescribed by the state auditor by rule, substantiating the tax rate for debt service complies with Missouri law. A tax rate proposed for annual debt service requirements will be prima facie valid if, after making the payment for which the tax was levied, bonds remain outstanding and the debt fund reserves do not exceed the following year's payments. The county clerk shall keep on file and available for public inspection all such information for a period of three years. The clerk shall, within three days of receipt, forward a copy of the notice of a taxing authority's tax rate ceiling and proposed tax rate and any substantiating data to the state auditor. The state auditor shall, within fifteen days of the date of receipt, examine such information and return to the county clerk his or her findings as to compliance of the tax rate ceiling with this section and as to compliance of any proposed tax rate for debt service with Missouri law. If the state auditor believes that a taxing authority's proposed tax rate does not comply with Missouri law, then the state auditor's findings shall include a recalculated tax rate, and the state auditor may request a taxing authority to submit documentation supporting such taxing authority's proposed tax rate. The county clerk shall immediately forward a copy of the auditor's findings to the taxing authority and shall file a copy of the findings with the information received from the taxing authority. The taxing authority shall have fifteen days from the date of receipt from the county clerk of the state auditor's findings and any request for supporting documentation to accept or reject in writing the rate change certified by the state auditor and to submit all requested information to the state auditor. A copy of the taxing authority's

acceptance or rejection and any information submitted to the state auditor shall also be mailed to the county clerk. If a taxing authority rejects a rate change certified by the state auditor and the state auditor does not receive supporting information which justifies the taxing authority's original or any subsequent proposed tax rate, then the state auditor shall refer the perceived violations of such taxing authority to the attorney general's office and the attorney general is authorized to obtain injunctive relief to prevent the taxing authority from levying a violative tax rate.

7. No tax rate shall be extended on the tax rolls by the county clerk unless the political subdivision has complied with the foregoing provisions of this section.

8. Whenever a taxpayer has cause to believe that a taxing authority has not complied with the provisions of this section, the taxpayer may make a formal complaint with the prosecuting attorney of the county. Where the prosecuting attorney fails to bring an action within ten days of the filing of the complaint, the taxpayer may bring a civil action pursuant to this section and institute an action as representative of a class of all taxpayers within a taxing authority if the class is so numerous that joinder of all members is impracticable, if there are questions of law or fact common to the class, if the claims or defenses of the representative parties are typical of the claims or defenses of the class, and if the representative parties will fairly and adequately protect the interests of the class. In any class action maintained pursuant to this section, the court may direct to the members of the class a notice to be published at least once each week for four consecutive weeks in a newspaper of general circulation published in the county where the civil action is commenced and in other counties within the jurisdiction of a taxing authority. The notice shall advise each member that the court will exclude him or her from the class if he or she so requests by a specified date, that the judgment, whether favorable or not, will include all members who do not request exclusion, and that any member who does not request exclusion may, if he or she desires, enter an appearance. In any class action brought pursuant to this section, the court, in addition to the relief requested, shall assess against the taxing authority found to be in violation of this section the reasonable costs of bringing the action, including reasonable attorney's fees, provided no attorney's fees shall be awarded any attorney or association of attorneys who receive public funds from any source for their services. Any action brought pursuant to this section shall be set for hearing as soon as practicable after the cause is at issue.

9. If in any action, including a class action, the court issues an order requiring a taxing authority to revise the tax rates as provided in this section or enjoins a taxing authority from the collection of a tax because of its failure to revise the rate of levy as provided in this section, any taxpayer paying his or her taxes when an improper rate is applied has erroneously paid his or her taxes in part, whether or not the taxes are paid under protest as provided in section 139.031 or otherwise contested. The part of the taxes paid erroneously is the difference in the amount produced by the original levy and the amount produced by the revised levy. The township or county collector of taxes or the collector of taxes in any city shall refund the amount of the tax erroneously paid. The taxing authority refusing to revise the rate of levy as provided in this section shall make available to the collector all funds necessary to make refunds pursuant to this subsection. No taxpayer shall receive any interest on any money erroneously paid by him or her pursuant to this subsection. Effective in the 1994 tax year, nothing in this section shall be construed to require a taxing authority to refund any tax erroneously paid prior to or during the third tax year preceding the current tax year.

10. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

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**137.082. NEW CONSTRUCTION, ASSESSMENT OF UPON OCCUPANCY, HOW — PAYMENT OF TAXES, WHEN — COUNTY ASSESSOR, DUTIES — COUNTY OPTION — NATURAL DISASTERS, ASSESSMENT REDUCTION ALLOWED, EFFECT. —** 1. Notwithstanding the provisions of sections 137.075 and 137.080 to the contrary, a building or other structure classified as residential property pursuant to section 137.016 newly constructed and occupied on any parcel of real property shall be assessed and taxed on such assessed valuation as of the first day of the month following the date of occupancy for the proportionate part of the remaining year at the tax rates established for that year, in all taxing jurisdictions located in the county adopting this section as provided in subsection 8 of this section. Newly constructed residential property which has never been occupied shall not be assessed as improved real property until such occupancy or the first day of January of the [second] **fourth** year following the year in which construction of the improvements was completed. **The provisions of this subsection shall apply in those counties including any city not within a county in which the governing body has previously adopted or hereafter adopts the provisions of this subsection.**

2. The assessor may consider a property residentially occupied upon personal verification or when any two of the following conditions have been met:

- (1) An occupancy permit has been issued for the property;
- (2) A deed transferring ownership from one party to another has been filed with the recorder of deeds' office subsequent to the date of the first permanent utility service;
- (3) A utility company providing service in the county has verified a transfer of service for property from one party to another;
- (4) The person or persons occupying the newly constructed property has registered a change of address with any local, state or federal governmental office or agency.

3. In implementing the provisions of this section, the assessor may use occupancy permits, building permits, warranty deeds, utility connection documents, including telephone connections, or other official documents as may be necessary to discover the existence of newly constructed properties. No utility company shall refuse to provide verification monthly to the assessor of a utility connection to a newly occupied single family building or structure.

4. In the event that the assessment under subsections 1 and 2 of this section is not completed until after the deadline for filing appeals in a given tax year, the owner of the newly constructed property who is aggrieved by the assessment of the property may appeal this assessment the following year to the county board of equalization in accordance with chapter 138 and may pay any taxes under protest in accordance with section 139.031; provided however, that such payment under protest shall not be required as a condition of appealing to the county board of equalization. The collector shall impound such protested taxes and shall not disburse such taxes until resolution of the appeal.

5. The increase in assessed valuation resulting from the implementation of the provisions of this section shall be considered new construction and improvements under the provisions of this chapter.

6. In counties which adopt the provisions of subsections 1 to 7 of this section, an amount not to exceed ten percent of all ad valorem property tax collections on newly constructed and occupied residential property allocable to each taxing authority within counties of the first classification having a population of nine hundred thousand or more, one-tenth of one percent of all ad valorem property tax collections allocable to each taxing authority within all other counties of the first classification and one-fifth of one percent of all ad valorem property tax collections allocable to each taxing authority within counties of the second, third and fourth classifications and any county of the first classification having a population of at least eighty-two thousand inhabitants, but less than eighty-two thousand one hundred inhabitants, in addition to the amount prescribed by section 137.720 shall be deposited into the assessment fund of the county for collection costs.

7. For purposes of figuring the tax due on such newly constructed residential property, the assessor or the board of equalization shall place the full amount of the assessed valuation on the

tax book upon the first day of the month following occupancy. Such assessed valuation shall be taxed for each month of the year following such date at its new assessed valuation, and for each month of the year preceding such date at its previous valuation. The percentage derived from dividing the number of months at which the property is taxed at its new valuation by twelve shall be applied to the total assessed valuation of the new construction and improvements, and such product shall be included in the next year's base for the purposes of figuring the next year's tax levy rollback. The untaxed percentage shall be considered as new construction and improvements in the following year and shall be exempt from the rollback provisions.

8. Subsections 1 to 7 of this section shall be effective in those counties including any city not within a county in which the governing body of such county elects to adopt a proposal to implement the provisions of subsections 1 to 7 of this section. Such subsections shall become effective in such county on the first day of January of the year following such election.

9. In any county which adopts the provisions of subsections 1 to 7 of this section prior to the first day of June in any year pursuant to subsection 8 of this section, the assessor of such county shall, upon application of the property owner, remove on a pro rata basis from the tax book for the current year any residential real property improvements destroyed by a natural disaster if such property is unoccupied and uninhabitable due to such destruction. On or after the first day of July, the board of equalization shall perform such duties. Any person claiming such destroyed property shall provide a list of such destroyed property to the county assessor. The assessor shall have available a supply of appropriate forms on which the claim shall be made. The assessor may verify all such destroyed property listed to ensure that the person made a correct statement. Any person who completes such a list and, with intent to defraud, includes property on the list that was not destroyed by a natural disaster shall, in addition to any other penalties provided by law, be assessed double the value of any property fraudulently listed. The list shall be filed by the assessor, after he has provided a copy of the list to the county collector and the board of equalization, in the office of the county clerk who, after entering the filing thereof, shall preserve and safely keep them. If the assessor, subsequent to such destruction, considers such property occupied as provided in subsection 2 of this section, the assessor shall consider such property new construction and improvements and shall assess such property accordingly as provided in subsection 1 of this section. For the purposes of this section, the term "natural disaster" means any disaster due to natural causes such as tornado, fire, flood, or earthquake.

10. Any political subdivision may recover the loss of revenue caused by subsection 9 of this section by adjusting the rate of taxation, to the extent previously authorized by the voters of such political subdivision, for the tax year immediately following the year of such destruction in an amount not to exceed the loss of revenue caused by this section.

**238.202. DEFINITIONS.** — 1. As used in sections 238.200 to 238.275, the following terms mean:

- (1) "Board", the board of directors of a district;
- (2) "Commission", the Missouri highways and transportation commission;
- (3) "District", a transportation development district organized under sections 238.200 to 238.275;
- (4) "Local transportation authority", a county, city, town, village, county highway commission, special road district, interstate compact agency, or any local public authority or political subdivision having jurisdiction over any bridge, street, highway, dock, wharf, ferry, lake or river port, airport, railroad, light rail or other transit improvement or service;
- (5) "Project" includes any bridge, street, road, highway, access road, interchange, intersection, signing, signalization, parking lot, bus stop, station, garage, terminal, hangar, shelter, rest area, dock, wharf, lake or river port, airport, railroad, light rail, or other mass transit and any similar or related improvement or infrastructure.

2. For the purposes of sections 11(c), 16 and 22 of article X of the Constitution of Missouri, section 137.073, and as used in sections 238.200 to 238.275, the following terms shall have the meanings given:

- (1) "Approval of the required majority" or "direct voter approval", a simple majority;
- (2) "Qualified electors", "qualified voters" or "voters":

(a) Within a proposed or established district, except for a district proposed under subsection 1 of section 238.207, any persons residing therein who have registered to vote pursuant to chapter 115; or

(b) Within a district proposed or established under [subsection 1] **subsections 1 or 5** of section 238.207 which has no persons residing therein who have registered to vote pursuant to chapter 115, the owners of record of all real property located in the district, who shall receive one vote per acre, provided that if a registered voter subsequent to the creation of the district becomes a resident within the district and obtains ownership of property within the district, such registered voter must elect whether to vote as an owner of real property or as a registered voter, which election once made cannot thereafter be changed;

- (3) "Registered voters", persons qualified and registered to vote pursuant to chapter 115.

Approved July 5, 2011

## HB 550 [HB 550]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

### **Changes the laws regarding liens and encumbrances on motor vehicles, trailers, watercraft, and manufactured homes**

AN ACT to repeal sections 301.600, 306.400, and 700.350, RSMo, and to enact in lieu thereof three new sections relating to liens and encumbrances.

#### SECTION

- A. Enacting clause.
- 301.600. Liens and encumbrances, how perfected — effect of on vehicles and trailers brought into state — security procedures for verifying electronic notices.
- 306.400. Liens and encumbrances — valid, perfected, when, how, future advances — boats and motors subject to, when, how determined — revenue to establish security procedure, electronic notices, rulemaking authority.
- 700.350. Liens and encumbrances — valid, perfected, when, how — home subject to, when, how determined — security procedures — validity of prior transactions.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 301.600, 306.400, and 700.350, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 301.600, 306.400, and 700.350, to read as follows:

**301.600. LIENS AND ENCUMBRANCES, HOW PERFECTED — EFFECT OF ON VEHICLES AND TRAILERS BROUGHT INTO STATE — SECURITY PROCEDURES FOR VERIFYING ELECTRONIC NOTICES.** — 1. Unless excepted by section 301.650, a lien or encumbrance on a motor vehicle or trailer, as defined by section 301.010, is not valid against subsequent transferees or lienholders of the motor vehicle or trailer who took without knowledge of the lien or encumbrance unless the lien or encumbrance is perfected as provided in sections 301.600 to 301.660.

2. Subject to the provisions of section 301.620, a lien or encumbrance on a motor vehicle or trailer is perfected by the delivery to the director of revenue of a notice of a lien in a format as prescribed by the director of revenue. **The notice of lien is perfected as of the time of its creation if the delivery of such notice to the director of revenue is completed within thirty days thereafter, otherwise as of the time of the delivery.** A notice of lien shall contain the name and address of the owner of the motor vehicle or trailer and the secured party, a description of the motor vehicle or trailer, including the vehicle identification number, and such other information as the department of revenue may prescribe. A notice of lien substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading. Provided the lienholder submits complete and legible documents, the director of revenue shall mail confirmation or electronically confirm receipt of such notice of lien to the lienholder as soon as possible, but no later than fifteen business days after the filing of the notice of lien.

3. Notwithstanding the provisions of section 301.620, on a refinance of a loan secured by a motor vehicle or trailer a lien is perfected by the delivery to the director of revenue of a notice of lien completed by the refinancing lender in a format prescribed by the director of revenue.

4. To perfect a subordinate lien, the notice of lien must be accompanied by the documents required to be delivered to the director pursuant to subdivision (3) of section 301.620. [The notice of lien is perfected as of the time of its creation if the delivery of such notice to the director of revenue is completed within thirty days thereafter, otherwise as of the time of the delivery. A notice of lien shall contain the name and address of the owner of the motor vehicle or trailer and the secured party, a description of the motor vehicle or trailer, including the vehicle identification number, and such other information as the department of revenue may prescribe. A notice of lien substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading. Provided the lienholder submits complete and legible documents, the director of revenue shall mail confirmation or electronically confirm receipt of such notice of lien to the lienholder as soon as possible, but no later than fifteen business days after the filing of the notice of lien.

3.] 5. Liens may secure future advances. The future advances may be evidenced by one or more notes or other documents evidencing indebtedness and shall not be required to be executed or delivered prior to the date of the future advance lien securing them. The fact that a lien may secure future advances shall be clearly stated on the security agreement and noted as "subject to future advances" on the notice of lien and noted on the certificate of ownership if the motor vehicle or trailer is subject to only one notice of lien. To secure future advances when an existing lien on a motor vehicle or trailer does not secure future advances, the lienholder shall file a notice of lien reflecting the lien to secure future advances. A lien to secure future advances is perfected in the same time and manner as any other lien, except as follows: proof of the lien for future advances is maintained by the department of revenue; however, there shall be additional proof of such lien when the notice of lien reflects such lien for future advances, is receipted for by the department of revenue, and returned to the lienholder.

[4.] 6. If a motor vehicle or trailer is subject to a lien or encumbrance when brought into this state, the validity and effect of the lien or encumbrance is determined by the law of the jurisdiction where the motor vehicle or trailer was when the lien or encumbrance attached, subject to the following:

(1) If the parties understood at the time the lien or encumbrance attached that the motor vehicle or trailer would be kept in this state and it was brought into this state within thirty days thereafter for purposes other than transportation through this state, the validity and effect of the lien or encumbrance in this state is determined by the law of this state;

(2) If the lien or encumbrance was perfected pursuant to the law of the jurisdiction where the motor vehicle or trailer was when the lien or encumbrance attached, the following rules apply:



(a) If the name of the lienholder is shown on an existing certificate of title or ownership issued by that jurisdiction, the lien or encumbrance continues perfected in this state;

(b) If the name of the lienholder is not shown on an existing certificate of title or ownership issued by that jurisdiction, the lien or encumbrance continues perfected in this state three months after a first certificate of ownership of the motor vehicle or trailer is issued in this state, and also thereafter if, within the three-month period, it is perfected in this state. The lien or encumbrance may also be perfected in this state after the expiration of the three-month period; in that case perfection dates from the time of perfection in this state;

(3) If the lien or encumbrance was not perfected pursuant to the law of the jurisdiction where the motor vehicle or trailer was when the lien or encumbrance attached, it may be perfected in this state; in that case perfection dates from the time of perfection in this state;

(4) A lien or encumbrance may be perfected pursuant to paragraph (b) of subdivision (2) or subdivision (3) of this subsection either as provided in subsection 2 or 3 of this section or by the lienholder delivering to the director of revenue a notice of lien or encumbrance in the form the director of revenue prescribes and the required fee.

[5.] 7. By rules and regulations, the director of revenue shall establish a security procedure for the purpose of verifying that an electronic notice of lien or notice of satisfaction of a lien on a motor vehicle or trailer given as permitted in sections 301.600 to 301.640 is that of the lienholder, verifying that an electronic notice of confirmation of ownership and perfection of a lien given as required in section 301.610 is that of the director of revenue, and detecting error in the transmission or the content of any such notice. A security procedure may require the use of algorithms or other codes, identifying words or numbers, encryption, callback procedures or similar security devices. Comparison of a signature on a communication with an authorized specimen signature shall not by itself be a security procedure.

**306.400. LIENS AND ENCUMBRANCES — VALID, PERFECTED, WHEN, HOW, FUTURE ADVANCES — BOATS AND MOTORS SUBJECT TO, WHEN, HOW DETERMINED — REVENUE TO ESTABLISH SECURITY PROCEDURE, ELECTRONIC NOTICES, RULEMAKING AUTHORITY. — 1.** As used in sections 306.400 to 306.440, the terms "motorboat", "vessel", and "watercraft" shall have the same meanings given them in section 306.010, and the term "outboard motor" shall include outboard motors governed by section 306.530.

2. Unless excepted by section 306.425, a lien or encumbrance on an outboard motor, motorboat, vessel, or watercraft shall not be valid against subsequent transferees or lienholders of the outboard motor, motorboat, vessel or watercraft, who took without knowledge of the lien or encumbrance unless the lien or encumbrance is perfected as provided in sections 306.400 to 306.430.

3. A lien or encumbrance on an outboard motor, motorboat, vessel or watercraft is perfected by the delivery to the director of revenue of a notice of lien in a format as prescribed by the director. Such lien or encumbrance shall be perfected as of the time of its creation if the delivery of the items required in this subsection to the director of revenue is completed within thirty days thereafter, otherwise such lien or encumbrance shall be perfected as of the time of the delivery. A notice of lien shall contain the name and address of the owner of the outboard motor, motorboat, vessel or watercraft and the secured party, a description of the outboard motor, motorboat, vessel or watercraft motor, including any identification number, and such other information as the department of revenue may prescribe. A notice of lien substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading. Provided the lienholder submits complete and legible documents, the director of revenue shall mail confirmation or electronically confirm receipt of each notice of lien to the lienholder as soon as possible, but no later than fifteen business days after the filing of the notice of lien.

4. **Notwithstanding the provisions of section 306.410, on a refinance of a loan secured by an outboard motor, motorboat, vessel or watercraft, a lien is perfected by the delivery**

**to the director of revenue of a notice of lien completed by the refinancing lender in a format prescribed by the director of revenue.**

5. Liens may secure future advances. The future advances may be evidenced by one or more notes or other documents evidencing indebtedness and shall not be required to be executed or delivered prior to the date of the future advance lien securing them. The fact that a lien may secure future advances shall be clearly stated on the security agreement and noted as "subject to future advances" in the second lienholder's portion of the notice of lien. To secure future advances when an existing lien on an outboard motor, motorboat, vessel or watercraft does not secure future advances, the lienholder shall file a notice of lien reflecting the lien to secure future advances. A lien to secure future advances is perfected in the same time and manner as any other lien, except as follows. Proof of the lien for future advances is maintained by the department of revenue; however, there shall be additional proof of such lien when the notice of lien reflects such lien for future advances, is receipted for by the department of revenue, and returned to the lienholder.

[5.] 6. Whether an outboard motor, motorboat, vessel, or watercraft is subject to a lien or encumbrance shall be determined by the laws of the jurisdiction where the outboard motor, motorboat, vessel, or watercraft was when the lien or encumbrance attached, subject to the following:

(1) If the parties understood at the time the lien or encumbrances attached that the outboard motor, motorboat, vessel, or watercraft would be kept in this state and it is brought into this state within thirty days thereafter for purposes other than transportation through this state, the validity and effect of the lien or encumbrance in this state shall be determined by the laws of this state;

(2) If the lien or encumbrance was perfected pursuant to the laws of the jurisdiction where the outboard motor, motorboat, vessel, or watercraft was when the lien or encumbrance attached, the following rules apply:

(a) If the name of the lienholder is shown on an existing certificate of title or ownership issued by that jurisdiction, his or her lien or encumbrance continues perfected in this state;

(b) If the name of the lienholder is not shown on an existing certificate of title or ownership issued by the jurisdiction, the lien or encumbrance continues perfected in this state for three months after the first certificate of title of the outboard motor, motorboat, vessel, or watercraft is issued in this state, and also thereafter if, within the three-month period, it is perfected in this state. The lien or encumbrance may also be perfected in this state after the expiration of the three-month period, in which case perfection dates from the time of perfection in this state;

(3) If the lien or encumbrance was not perfected pursuant to the laws of the jurisdiction where the outboard motor, motorboat, vessel, or watercraft was when the lien or encumbrance attached, it may be perfected in this state, in which case perfection dates from the time of perfection in this state;

(4) A lien or encumbrance may be perfected pursuant to paragraph (b) of subdivision (2) or subdivision (3) of this subsection in the same manner as provided in subsection 3 of this section.

[6.] 7. The director of revenue shall by rules and regulations establish a security procedure to verify that an electronic notice or lien or notice of satisfaction of a lien on an outboard motor, motorboat, vessel or watercraft given pursuant to sections 306.400 to 306.440 is that of the lienholder, to verify that an electronic notice of confirmation of ownership and perfection of a lien given pursuant to section 306.410 is that of the director of revenue and to detect error in the transmission or the content of any such notice. Such a security procedure may require the use of algorithms or other codes, identifying words or numbers, encryption, callback procedures or similar security devices. Comparison of a signature on a communication with an authorized specimen signature shall not by itself constitute a security procedure.

**700.350. LIENS AND ENCUMBRANCES — VALID, PERFECTED, WHEN, HOW — HOME SUBJECT TO, WHEN, HOW DETERMINED — SECURITY PROCEDURES — VALIDITY OF PRIOR**

**TRANSACTIONS.** — 1. As used in sections 700.350 to 700.390, the term manufactured home shall have the same meaning given it in section 400.9-102(a)(53).

2. Unless excepted by section 700.375, a lien or encumbrance, including a security interest under article 9 of chapter 400, on a manufactured home shall not be valid against subsequent transferees or lienholders of the manufactured home who took without knowledge of the lien or encumbrance unless the lien or encumbrance is perfected as provided in sections 700.350 to 700.380.

3. A lien or encumbrance on a manufactured home is perfected by the delivery to the director of revenue of a notice of lien in a format as prescribed by the director of revenue. Such lien or encumbrance shall be perfected as of the time of its creation if the delivery of the notice of lien required in this subsection to the director of revenue is completed within thirty days thereafter, otherwise such lien or encumbrance shall be perfected as of the time of the delivery; provided, however, that a purchase money security interest in a manufactured home under article 9 of chapter 400 is perfected against the rights of judicial lien creditors and execution creditors on and after the date such purchase money security interest attaches; and further provided that the holder of a security interest in or a lien on a manufactured home may deliver lien release documents to any person to facilitate conveying or encumbering the manufactured home. Any person receiving any such documents so delivered holds the documents in trust for the security interest holder or the lienholder. A notice of lien shall contain the name and address of the owner of the manufactured home and the secured party, a description of the manufactured home, including any identification number and such other information as the department of revenue shall prescribe. A notice of lien substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading.

**4. Notwithstanding the provisions of section 700.360, on a refinance of a loan secured by a manufactured home, a lien is perfected by the delivery to the director of revenue of a notice of lien completed by the refinancing lender in a format prescribed by the director of revenue.**

5. Liens may secure future advances. The future advances may be evidenced by one or more notes or other documents evidencing indebtedness and shall not be required to be executed or delivered prior to the date of the future advance lien securing them. The fact that a lien may secure future advances shall be clearly stated on the security agreement and noted as "subject to future advances" in the notice of lien and noted on the certificate of ownership if the motor vehicle or trailer is subject to only one lien. To secure future advances when an existing lien on a manufactured home does not secure future advances, the lienholder shall file a notice of lien reflecting the lien to secure future advances. A lien to secure future advances is perfected in the same time and manner as any other lien, except as follows: proof of the lien for future advances is maintained by the department of revenue; however, there shall be additional proof of such lien when the notice of lien reflects such lien for future advances, is receipted by the department of revenue, and returned to the lienholder.

[4.] 6. Whether a manufactured home is subject to a lien or encumbrance shall be determined by the laws of the jurisdiction where the manufactured home was when the lien or encumbrance attached, subject to the following:

(1) If the parties understood at the time the lien or encumbrances attached that the manufactured home would be kept in this state and it is brought into this state within thirty days thereafter for purposes other than transportation through this state, the validity and effect of the lien or encumbrance in this state shall be determined by the laws of this state;

(2) If the lien or encumbrance was perfected under the laws of the jurisdiction where the manufactured home was when the lien or encumbrance attached, the following rules apply:

(a) If the name of the lienholder is shown on an existing certificate of title or ownership issued by that jurisdiction, his lien or encumbrance continues perfected in this state;

(b) If the name of the lienholder is not shown on an existing certificate of title or ownership issued by the jurisdiction, the lien or encumbrance continues perfected in this state for three months after the first certificate of title of the manufactured home is issued in this state, and also thereafter if, within the three-month period, it is perfected in this state. The lien or encumbrance may also be perfected in this state after the expiration of the three-month period, in which case perfection dates from the time of perfection in this state;

(3) If the lien or encumbrance was not perfected under the laws of the jurisdiction where the manufactured home was when the lien or encumbrance attached, it may be perfected in this state, in which case perfection dates from the time of perfection in this state;

(4) A lien or encumbrance may be perfected under paragraph (b) of subdivision (2) or subdivision (3) of this subsection in the same manner as provided in subsection 3 or 4 of this section or by the lienholder delivering to the director of revenue a notice of lien or encumbrance in the form the director prescribes and the required fee.

[5.] 7. By rules and regulations, the director of revenue shall establish a security procedure for the purpose of verifying that an electronic notice of lien or notice of satisfaction of lien on a manufactured home given as permitted in this chapter is that of the lienholder, verifying that an electronic notice of confirmation of ownership and perfection of a lien given as required in this chapter is that of the director of revenue, and detecting error in the transmission or the content of such notice. A security procedure may require the use of algorithms or other codes, identifying words or numbers, encryption, callback procedures or similar security devices. Comparison of a signature on a communication with an authorized specimen signature shall not by itself be a security procedure.

[6.] 8. All transactions involving liens or encumbrances on manufactured homes perfected pursuant to sections 700.350 to 700.390 after June 30, 2001, and before August 28, 2002, and the rights, duties, and interests flowing from them are and shall remain valid thereafter and may be terminated, completed, consummated, or enforced as required or permitted by section 400.9-303. Section 400.9-303 and this section are remedial in nature and shall be given that construction.

[7.] 9. Except as otherwise provided in section 442.015, subsections 1 and 2 of section 700.111, subsection 2 of section 700.360, and subsection 2 of section 700.375, after a certificate of title has been issued to a manufactured home and as long as the manufactured home is subject to any security interest perfected under this section, the department shall not file an affidavit of affixation, nor cancel the manufacturer's certificate of origin, nor revoke the certificate of title, and, in any event, the validity and priority of any security interest perfected under this section shall continue, notwithstanding the provision of any other law.

Approved July 1, 2011

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## HB 552 [SCS HCS HB 552]

**EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.**

### **Requires the State Board of Pharmacy to establish rules governing the standard of care for pharmacies dispensing blood clotting therapies**

AN ACT to repeal section 208.152, RSMo, and to enact in lieu thereof two new sections relating to the standard of care for the treatment of persons with bleeding disorders.

#### SECTION

A. Enacting clause.

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- 208.152. Medical services for which payment will be made — co-payments may be required — reimbursement for services.
- 338.400. Standard of care, definitions, rules.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Section 208.152, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 208.152 and 338.400, to read as follows:

**208.152. MEDICAL SERVICES FOR WHICH PAYMENT WILL BE MADE — CO-PAYMENTS MAY BE REQUIRED — REIMBURSEMENT FOR SERVICES.** — 1. MO HealthNet payments shall be made on behalf of those eligible needy persons as defined in section 208.151 who are unable to provide for it in whole or in part, with any payments to be made on the basis of the reasonable cost of the care or reasonable charge for the services as defined and determined by the MO HealthNet division, unless otherwise hereinafter provided, for the following:

(1) Inpatient hospital services, except to persons in an institution for mental diseases who are under the age of sixty-five years and over the age of twenty-one years; provided that the MO HealthNet division shall provide through rule and regulation an exception process for coverage of inpatient costs in those cases requiring treatment beyond the seventy-fifth percentile professional activities study (PAS) or the MO HealthNet children's diagnosis length-of-stay schedule; and provided further that the MO HealthNet division shall take into account through its payment system for hospital services the situation of hospitals which serve a disproportionate number of low-income patients;

(2) All outpatient hospital services, payments therefor to be in amounts which represent no more than eighty percent of the lesser of reasonable costs or customary charges for such services, determined in accordance with the principles set forth in Title XVIII A and B, Public Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. 301, et seq.), but the MO HealthNet division may evaluate outpatient hospital services rendered under this section and deny payment for services which are determined by the MO HealthNet division not to be medically necessary, in accordance with federal law and regulations;

(3) Laboratory and X-ray services;

(4) Nursing home services for participants, except to persons with more than five hundred thousand dollars equity in their home or except for persons in an institution for mental diseases who are under the age of sixty-five years, when residing in a hospital licensed by the department of health and senior services or a nursing home licensed by the department of health and senior services or appropriate licensing authority of other states or government-owned and -operated institutions which are determined to conform to standards equivalent to licensing requirements in Title XIX of the federal Social Security Act (42 U.S.C. 301, et seq.), as amended, for nursing facilities. The MO HealthNet division may recognize through its payment methodology for nursing facilities those nursing facilities which serve a high volume of MO HealthNet patients. The MO HealthNet division when determining the amount of the benefit payments to be made on behalf of persons under the age of twenty-one in a nursing facility may consider nursing facilities furnishing care to persons under the age of twenty-one as a classification separate from other nursing facilities;

(5) Nursing home costs for participants receiving benefit payments under subdivision (4) of this subsection for those days, which shall not exceed twelve per any period of six consecutive months, during which the participant is on a temporary leave of absence from the hospital or nursing home, provided that no such participant shall be allowed a temporary leave of absence unless it is specifically provided for in his plan of care. As used in this subdivision, the term "temporary leave of absence" shall include all periods of time during which a participant is away from the hospital or nursing home overnight because he is visiting a friend or relative;

(6) Physicians' services, whether furnished in the office, home, hospital, nursing home, or elsewhere;

(7) Drugs and medicines when prescribed by a licensed physician, dentist, or podiatrist; except that no payment for drugs and medicines prescribed on and after January 1, 2006, by a licensed physician, dentist, or podiatrist may be made on behalf of any person who qualifies for prescription drug coverage under the provisions of P.L. 108-173;

(8) Emergency ambulance services and, effective January 1, 1990, medically necessary transportation to scheduled, physician-prescribed nonelective treatments;

(9) Early and periodic screening and diagnosis of individuals who are under the age of twenty-one to ascertain their physical or mental defects, and health care, treatment, and other measures to correct or ameliorate defects and chronic conditions discovered thereby. Such services shall be provided in accordance with the provisions of Section 6403 of P.L. 101-239 and federal regulations promulgated thereunder;

(10) Home health care services;

(11) Family planning as defined by federal rules and regulations; provided, however, that such family planning services shall not include abortions unless such abortions are certified in writing by a physician to the MO HealthNet agency that, in his professional judgment, the life of the mother would be endangered if the fetus were carried to term;

(12) Inpatient psychiatric hospital services for individuals under age twenty-one as defined in Title XIX of the federal Social Security Act (42 U.S.C. 1396d, et seq.);

(13) Outpatient surgical procedures, including presurgical diagnostic services performed in ambulatory surgical facilities which are licensed by the department of health and senior services of the state of Missouri; except, that such outpatient surgical services shall not include persons who are eligible for coverage under Part B of Title XVIII, Public Law 89-97, 1965 amendments to the federal Social Security Act, as amended, if exclusion of such persons is permitted under Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security Act, as amended;

(14) Personal care services which are medically oriented tasks having to do with a person's physical requirements, as opposed to housekeeping requirements, which enable a person to be treated by his physician on an outpatient rather than on an inpatient or residential basis in a hospital, intermediate care facility, or skilled nursing facility. Personal care services shall be rendered by an individual not a member of the participant's family who is qualified to provide such services where the services are prescribed by a physician in accordance with a plan of treatment and are supervised by a licensed nurse. Persons eligible to receive personal care services shall be those persons who would otherwise require placement in a hospital, intermediate care facility, or skilled nursing facility. Benefits payable for personal care services shall not exceed for any one participant one hundred percent of the average statewide charge for care and treatment in an intermediate care facility for a comparable period of time. Such services, when delivered in a residential care facility or assisted living facility licensed under chapter 198 shall be authorized on a tier level based on the services the resident requires and the frequency of the services. A resident of such facility who qualifies for assistance under section 208.030 shall, at a minimum, if prescribed by a physician, qualify for the tier level with the fewest services. The rate paid to providers for each tier of service shall be set subject to appropriations. Subject to appropriations, each resident of such facility who qualifies for assistance under section 208.030 and meets the level of care required in this section shall, at a minimum, if prescribed by a physician, be authorized up to one hour of personal care services per day. Authorized units of personal care services shall not be reduced or tier level lowered unless an order approving such reduction or lowering is obtained from the resident's personal physician. Such authorized units of personal care services or tier level shall be transferred with such resident if her or she transfers to another such facility. Such provision shall terminate upon receipt of relevant waivers from the federal Department of Health and Human Services. If the Centers for Medicare and Medicaid Services determines that such provision does not comply with the state plan, this provision shall be null and void. The MO

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HealthNet division shall notify the revisor of statutes as to whether the relevant waivers are approved or a determination of noncompliance is made;

(15) Mental health services. The state plan for providing medical assistance under Title XIX of the Social Security Act, 42 U.S.C. 301, as amended, shall include the following mental health services when such services are provided by community mental health facilities operated by the department of mental health or designated by the department of mental health as a community mental health facility or as an alcohol and drug abuse facility or as a child-serving agency within the comprehensive children's mental health service system established in section 630.097. The department of mental health shall establish by administrative rule the definition and criteria for designation as a community mental health facility and for designation as an alcohol and drug abuse facility. Such mental health services shall include:

(a) Outpatient mental health services including preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health professional in accordance with a plan of treatment appropriately established, implemented, monitored, and revised under the auspices of a therapeutic team as a part of client services management;

(b) Clinic mental health services including preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health professional in accordance with a plan of treatment appropriately established, implemented, monitored, and revised under the auspices of a therapeutic team as a part of client services management;

(c) Rehabilitative mental health and alcohol and drug abuse services including home and community-based preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health or alcohol and drug abuse professional in accordance with a plan of treatment appropriately established, implemented, monitored, and revised under the auspices of a therapeutic team as a part of client services management. As used in this section, mental health professional and alcohol and drug abuse professional shall be defined by the department of mental health pursuant to duly promulgated rules. With respect to services established by this subdivision, the department of social services, MO HealthNet division, shall enter into an agreement with the department of mental health. Matching funds for outpatient mental health services, clinic mental health services, and rehabilitation services for mental health and alcohol and drug abuse shall be certified by the department of mental health to the MO HealthNet division. The agreement shall establish a mechanism for the joint implementation of the provisions of this subdivision. In addition, the agreement shall establish a mechanism by which rates for services may be jointly developed;

(16) Such additional services as defined by the MO HealthNet division to be furnished under waivers of federal statutory requirements as provided for and authorized by the federal Social Security Act (42 U.S.C. 301, et seq.) subject to appropriation by the general assembly;

(17) Beginning July 1, 1990, the services of a certified pediatric or family nursing practitioner with a collaborative practice agreement to the extent that such services are provided in accordance with chapters 334 and 335, and regulations promulgated thereunder;

(18) Nursing home costs for participants receiving benefit payments under subdivision (4) of this subsection to reserve a bed for the participant in the nursing home during the time that the participant is absent due to admission to a hospital for services which cannot be performed on an outpatient basis, subject to the provisions of this subdivision:

(a) The provisions of this subdivision shall apply only if:

a. The occupancy rate of the nursing home is at or above ninety-seven percent of MO HealthNet certified licensed beds, according to the most recent quarterly census provided to the department of health and senior services which was taken prior to when the participant is admitted to the hospital; and

b. The patient is admitted to a hospital for a medical condition with an anticipated stay of three days or less;

(b) The payment to be made under this subdivision shall be provided for a maximum of three days per hospital stay;

(c) For each day that nursing home costs are paid on behalf of a participant under this subdivision during any period of six consecutive months such participant shall, during the same period of six consecutive months, be ineligible for payment of nursing home costs of two otherwise available temporary leave of absence days provided under subdivision (5) of this subsection; and

(d) The provisions of this subdivision shall not apply unless the nursing home receives notice from the participant or the participant's responsible party that the participant intends to return to the nursing home following the hospital stay. If the nursing home receives such notification and all other provisions of this subsection have been satisfied, the nursing home shall provide notice to the participant or the participant's responsible party prior to release of the reserved bed;

(19) Prescribed medically necessary durable medical equipment. An electronic web-based prior authorization system using best medical evidence and care and treatment guidelines consistent with national standards shall be used to verify medical need;

(20) Hospice care. As used in this [subsection] **subdivision**, the term "hospice care" means a coordinated program of active professional medical attention within a home, outpatient and inpatient care which treats the terminally ill patient and family as a unit, employing a medically directed interdisciplinary team. The program provides relief of severe pain or other physical symptoms and supportive care to meet the special needs arising out of physical, psychological, spiritual, social, and economic stresses which are experienced during the final stages of illness, and during dying and bereavement and meets the Medicare requirements for participation as a hospice as are provided in 42 CFR Part 418. The rate of reimbursement paid by the MO HealthNet division to the hospice provider for room and board furnished by a nursing home to an eligible hospice patient shall not be less than ninety-five percent of the rate of reimbursement which would have been paid for facility services in that nursing home facility for that patient, in accordance with subsection (c) of Section 6408 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989);

(21) Prescribed medically necessary dental services. Such services shall be subject to appropriations. An electronic web-based prior authorization system using best medical evidence and care and treatment guidelines consistent with national standards shall be used to verify medical need;

(22) Prescribed medically necessary optometric services. Such services shall be subject to appropriations. An electronic web-based prior authorization system using best medical evidence and care and treatment guidelines consistent with national standards shall be used to verify medical need;

(23) **Blood clotting products-related services. For persons diagnosed with a bleeding disorder, as defined in section 338.400, reliant on blood clotting products, as defined in section 338.400, such services include:**

(a) **Home delivery of blood clotting products and ancillary infusion equipment and supplies, including the emergency deliveries of the product when medically necessary;**

(b) **Medically necessary ancillary infusion equipment and supplies required to administer the blood clotting products; and**

(c) **Assessments conducted in the participant's home by a pharmacist, nurse, or local home health care agency trained in bleeding disorders when deemed necessary by the participant's treating physician;**

(24) The MO HealthNet division shall, by January 1, 2008, and annually thereafter, report the status of MO HealthNet provider reimbursement rates as compared to one hundred percent of the Medicare reimbursement rates and compared to the average dental reimbursement rates paid by third-party payors licensed by the state. The MO HealthNet division shall, by July 1, 2008,



provide to the general assembly a four-year plan to achieve parity with Medicare reimbursement rates and for third-party payor average dental reimbursement rates. Such plan shall be subject to appropriation and the division shall include in its annual budget request to the governor the necessary funding needed to complete the four-year plan developed under this subdivision.

2. Additional benefit payments for medical assistance shall be made on behalf of those eligible needy children, pregnant women and blind persons with any payments to be made on the basis of the reasonable cost of the care or reasonable charge for the services as defined and determined by the division of medical services, unless otherwise hereinafter provided, for the following:

- (1) Dental services;
- (2) Services of podiatrists as defined in section 330.010;
- (3) Optometric services as defined in section 336.010;
- (4) Orthopedic devices or other prosthetics, including eye glasses, dentures, hearing aids, and wheelchairs;

(5) Hospice care. As used in this subsection, the term "hospice care" means a coordinated program of active professional medical attention within a home, outpatient and inpatient care which treats the terminally ill patient and family as a unit, employing a medically directed interdisciplinary team. The program provides relief of severe pain or other physical symptoms and supportive care to meet the special needs arising out of physical, psychological, spiritual, social, and economic stresses which are experienced during the final stages of illness, and during dying and bereavement and meets the Medicare requirements for participation as a hospice as are provided in 42 CFR Part 418. The rate of reimbursement paid by the MO HealthNet division to the hospice provider for room and board furnished by a nursing home to an eligible hospice patient shall not be less than ninety-five percent of the rate of reimbursement which would have been paid for facility services in that nursing home facility for that patient, in accordance with subsection (c) of Section 6408 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989);

(6) Comprehensive day rehabilitation services beginning early posttrauma as part of a coordinated system of care for individuals with disabling impairments. Rehabilitation services must be based on an individualized, goal-oriented, comprehensive and coordinated treatment plan developed, implemented, and monitored through an interdisciplinary assessment designed to restore an individual to optimal level of physical, cognitive, and behavioral function. The MO HealthNet division shall establish by administrative rule the definition and criteria for designation of a comprehensive day rehabilitation service facility, benefit limitations and payment mechanism. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this subdivision shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

3. The MO HealthNet division may require any participant receiving MO HealthNet benefits to pay part of the charge or cost until July 1, 2008, and an additional payment after July 1, 2008, as defined by rule duly promulgated by the MO HealthNet division, for all covered services except for those services covered under subdivisions (14) and (15) of subsection 1 of this section and sections 208.631 to 208.657 to the extent and in the manner authorized by Title XIX of the federal Social Security Act (42 U.S.C. 1396, et seq.) and regulations thereunder. When substitution of a generic drug is permitted by the prescriber according to section 338.056, and a generic drug is substituted for a name-brand drug, the MO HealthNet division may not lower or delete the requirement to make a co-payment pursuant to regulations of Title XIX of the federal Social Security Act. A provider of goods or services described under this section must collect from all participants the additional payment that may be required by the MO HealthNet division under

authority granted herein, if the division exercises that authority, to remain eligible as a provider. Any payments made by participants under this section shall be in addition to and not in lieu of payments made by the state for goods or services described herein except the participant portion of the pharmacy professional dispensing fee shall be in addition to and not in lieu of payments to pharmacists. A provider may collect the co-payment at the time a service is provided or at a later date. A provider shall not refuse to provide a service if a participant is unable to pay a required payment. If it is the routine business practice of a provider to terminate future services to an individual with an unclaimed debt, the provider may include uncollected co-payments under this practice. Providers who elect not to undertake the provision of services based on a history of bad debt shall give participants advance notice and a reasonable opportunity for payment. A provider, representative, employee, independent contractor, or agent of a pharmaceutical manufacturer shall not make co-payment for a participant. This subsection shall not apply to other qualified children, pregnant women, or blind persons. If the Centers for Medicare and Medicaid Services does not approve the Missouri MO HealthNet state plan amendment submitted by the department of social services that would allow a provider to deny future services to an individual with uncollected co-payments, the denial of services shall not be allowed. The department of social services shall inform providers regarding the acceptability of denying services as the result of unpaid co-payments.

4. The MO HealthNet division shall have the right to collect medication samples from participants in order to maintain program integrity.

5. Reimbursement for obstetrical and pediatric services under subdivision (6) of subsection 1 of this section shall be timely and sufficient to enlist enough health care providers so that care and services are available under the state plan for MO HealthNet benefits at least to the extent that such care and services are available to the general population in the geographic area, as required under subparagraph (a)(30)(A) of 42 U.S.C. 1396a and federal regulations promulgated thereunder.

6. Beginning July 1, 1990, reimbursement for services rendered in federally funded health centers shall be in accordance with the provisions of subsection 6402(c) and Section 6404 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989) and federal regulations promulgated thereunder.

7. Beginning July 1, 1990, the department of social services shall provide notification and referral of children below age five, and pregnant, breast-feeding, or postpartum women who are determined to be eligible for MO HealthNet benefits under section 208.151 to the special supplemental food programs for women, infants and children administered by the department of health and senior services. Such notification and referral shall conform to the requirements of Section 6406 of P.L. 101-239 and regulations promulgated thereunder.

8. Providers of long-term care services shall be reimbursed for their costs in accordance with the provisions of Section 1902 (a)(13)(A) of the Social Security Act, 42 U.S.C. 1396a, as amended, and regulations promulgated thereunder.

9. Reimbursement rates to long-term care providers with respect to a total change in ownership, at arm's length, for any facility previously licensed and certified for participation in the MO HealthNet program shall not increase payments in excess of the increase that would result from the application of Section 1902 (a)(13)(C) of the Social Security Act, 42 U.S.C. 1396a (a)(13)(C).

10. The MO HealthNet division, may enroll qualified residential care facilities and assisted living facilities, as defined in chapter 198, as MO HealthNet personal care providers.

11. Any income earned by individuals eligible for certified extended employment at a sheltered workshop under chapter 178 shall not be considered as income for purposes of determining eligibility under this section.

**338.400. STANDARD OF CARE, DEFINITIONS, RULES. — 1. As used in this section, the following terms shall mean:**

(1) "Ancillary infusion equipment and supplies", the equipment and supplies required to infuse a blood clotting therapy product into a human vein, including syringes, needles, sterile gauze, field pads, gloves, alcohol swabs, numbing creams, tourniquets, medical tape, sharps or equivalent biohazard waste containers, and cold compression packs;

(2) "Assay", the amount of a particular constituent of a mixture or of the biological or pharmacological potency of a drug;

(3) "Bleeding disorder", a medical condition characterized by a deficiency or absence of one or more essential blood-clotting components in the human blood, including all forms of hemophilia, von Willebrand's disease, and other bleeding disorders that result in uncontrollable bleeding or abnormal blood clotting;

(4) "Blood clotting product", a medicine approved for distribution by the federal Food and Drug Administration that is used for the treatment and prevention of symptoms associated with bleeding disorders, including but not limited to recombinant Factor VII, recombinant-activated Factor VIIa, recombinant Factor VIII, plasma-derived Factor VIII, recombinant Factor IX, plasma-derived Factor IX, von Willebrand factor products, bypass products for patients with inhibitors, prothrombin complex concentrates; and activated prothrombin complex concentrates;

(5) "Home nursing services", specialized nursing care provided in the home setting to assist a patient in the reconstitution and administration of blood clotting products;

(6) "Home use", infusion or other use of a blood clotting product in a place other than a hemophilia treatment center, hospital, emergency room, physician's office, outpatient facility, or clinic;

(7) "Pharmacy", an entity engaged in practice of pharmacy as defined in section 338.010 that provides patients with blood clotting products and ancillary infusion equipment and supplies.

2. The Missouri state board of pharmacy shall promulgate rules governing the standard of care for pharmacies dispensing blood clotting therapies. Such rules shall include, when feasible, the standards established by the medical advisory committees of the patient groups representing the hemophilia and von Willebrand diseases, including but not limited to Recommendation 188 of the National Hemophilia Foundation's Medical and Scientific Advisory Council. Such rules shall include safeguards to ensure the pharmacy:

(1) Has the ability to obtain and fill a physician prescription as written of all brands of blood clotting products approved by the federal Food and Drug Administration in multiple assay ranges of low, medium, and high, as applicable, and vial sizes, including products manufactured from human plasma and those manufactured from recombinant technology techniques, provided manufacturer supply exists and payer authorization is obtained;

(2) Provides for the shipment of prescribed blood clotting products to the patient within two business days or less for established patients and three business days or less for new patients in nonemergency situations;

(3) Provides established patients with access to blood clotting products within twelve hours of notification by the physician of the patient's emergent need for blood clotting products;

(4) Provides all ancillary infusion equipment and supplies necessary for established patients for administration of blood clotting products;

(5) Has a pharmacist available twenty-four hours a day, seven days a week, every day of the year, either onsite or on call, to fill prescriptions for blood clotting products;

(6) Provides patients who have received blood clotting products with a designated contact telephone number for reporting problems with a delivery or product;

(7) Provides patients with notification of recalls and withdrawals of blood clotting products and ancillary infusion equipment within twenty-four hours of receipt of the notification; and

(8) Provides containers for the disposal of hazardous waste, and provide patients with instructions on the proper collection, removal, and disposal of hazardous waste under state and federal law.

3. Notwithstanding the provisions of subsection 2 of this section, pharmacies and pharmacists shall exercise that degree of skill and learning ordinarily exercised by members of their profession in the dispensing and distributing of blood clotting products.

Approved July 7, 2011

## HB 555 [SS SCS HCS HB 555]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

### Changes the laws regarding health care

AN ACT to repeal sections 8.241, 178.900, 189.010, 189.065, 192.005, 198.012, 205.968, 208.151, 208.275, 208.955, 210.101, 210.496, 210.900, 211.031, 211.202, 211.203, 211.206, 211.207, 211.447, 301.143, 332.021, 334.120, 453.070, 475.121, 475.355, 476.537, 552.015, 552.020, 552.030, 552.040, 630.003, 630.005, 630.010, 630.053, 630.095, 630.097, 630.120, 630.165, 630.167, 630.183, 630.192, 630.210, 630.335, 630.405, 630.425, 630.510, 630.605, 630.610, 630.635, 630.705, 630.715, 630.735, 632.005, 632.105, 632.110, 632.115, 632.120, 632.370, 632.380, 633.005, 633.010, 633.020, 633.029, 633.030, 633.045, 633.050, 633.110, 633.115, 633.120, 633.125, 633.130, 633.135, 633.140, 633.145, 633.150, 633.155, 633.160, 633.180, 633.185, 633.190, 633.210, 633.300, 633.303, and 633.309, RSMo, and to enact in lieu thereof eighty-six new sections relating to health care policies, with existing penalty provisions.

#### SECTION

- A. Enacting clause.
- 8.241. Certain land in St. Louis City — restrictions.
- 162.946. Disability history and awareness instruction, school board may require — October designated disability history and awareness month — content and goals of instruction.
- 178.900. Definitions.
- 189.010. Definitions — funds intended for poor patients — patients that are ineligible.
- 189.065. Special need areas, expenditures for.
- 192.005. Department of health and senior services created — division of health abolished — duties.
- 198.012. Provisions of sections 198.003 to 198.136 not to apply, when — exempt entities may be licensed.
- 205.968. Facilities authorized — persons to be served, limitations, definitions.
- 208.151. Medical assistance, persons eligible — rulemaking authority.
- 208.275. Coordinating council on special transportation, creation — members, qualifications, appointment, terms, expenses — staff — powers — duties.
- 208.955. Committee established, members, duties — issuance of findings — subcommittee designated, duties, members.
- 210.101. Children's services commission established, members, qualifications — meetings open to public, notice — rules — staff — ex officio members.
- 210.105. Missouri task force on prematurity and infant mortality created — members, officers, expenses — duties — report — expiration date.
- 210.496. Refusal to issue, suspension or revocation of licenses — grounds.
- 210.900. Definitions.
- 211.031. Juvenile court to have exclusive jurisdiction, when — exceptions — home schooling, attendance violations, how treated.
- 211.202. Mentally disordered children, evaluation — disposition — review by court.
- 211.203. Developmentally disabled children, evaluation — disposition — review by court.

- 211.206. Duties of department of mental health — discharge by department — notice — jurisdiction of court.  
211.207. Youth services division may request evaluation — procedure after evaluation — transfer of custody.  
211.447. Petition to terminate parental rights filed, when — juvenile court may terminate parental rights, when — investigation to be made — grounds for termination.  
301.143. Parking space for physically disabled may be established by political subdivisions and others, signs — violations — enforcement — penalty — handicap and handicapped prohibited on signage, when.  
332.021. Dental board, members, qualifications, appointment, terms, vacancy, how filled — board may sue and be sued.  
334.120. Board created — members, appointment, qualifications, terms, compensation.  
453.070. Investigations precondition for adoption — contents of investigation report — how conducted — assessments of adoptive parents, contents — waiving of investigation, when — fees — preference to foster parents, when.  
475.121. Admission to mental health or developmental disability facilities.  
475.355. Temporary emergency detention.  
476.537. Judge leaving no surviving spouse or surviving spouse dies — dependents to receive benefits.  
552.015. Evidence of mental disease or defect, admissible, when.  
552.020. Lack of mental capacity bar to trial or conviction — psychiatric examination, when, report of — plea of not guilty by reason of mental disease, supporting pretrial evaluation, conditions of release — commitment to hospital, when — statements of accused inadmissible, when — jury may be impaneled to determine mental fitness.  
552.030. Mental disease or defect, not guilty plea based on, pretrial investigation — evidence — notice of defense — examination, reports confidential — statements not admissible, exception — presumption of competency — verdict contents — order of commitment to department.  
552.040. Definitions — acquittal based on mental disease or defect, commitment to state hospital required — immediate conditional release — conditional or unconditional release, when — prior commitment, authority to revoke — applications for release, notice, burden of persuasion, criteria — hearings required, when — denial, reapplication — escape, notice — additional criteria for release.  
630.003. Department created — state mental health commission — Missouri institute of mental health — transfers of powers and agencies.  
630.005. Definitions.  
630.010. Mental health commission — members, terms, qualifications, appointment, vacancies, compensation — organization, meetings.  
630.053. Mental health earnings fund — uses — rules and regulations, procedure.  
630.095. Copyrights and trademarks by department.  
630.097. Comprehensive children's mental health service system to be developed — team established, members, duties — plan to be developed, content — evaluations to be conducted, when.  
630.120. No presumptions.  
630.165. Suspected abuse of patient, report, by whom made, contents — effect of failure to report — penalty.  
630.167. Investigation of report, when made, by whom — abuse prevention by removal, procedure — reports confidential, privileged, exceptions — immunity of reporter, notification — retaliation prohibited — administrative discharge of employee, appeal procedure.  
630.183. Officers may authorize medical treatment for patient.  
630.192. Limitations on research activities in mental health facilities and programs.  
630.210. Charges for pay patients — each facility considered a separate unit — director to determine rules for means test and domicile verification — failure to pay, effect — exceptions, emergency treatment for transients — waiver of means test for certain children, when.  
630.335. Canteens and commissaries authorized — operation.  
630.405. Purchase of services, procedure — commissioner of administration to cooperate — rules, procedure.  
630.425. Incentive grants authorized — rules and regulations — duration of grants.  
630.510. Inventory of facilities — plan for new facilities.  
630.605. Placement programs to be maintained.  
630.610. Applications for placement — criteria to be considered.  
630.635. Procedure when consent not given — review panel to be named — notice and hearing required — appeal — emergency transfers may be made.  
630.705. Rules for standards for facilities and programs for persons affected by mental disorder, mental illness, or developmental disability — classification of facilities and programs — certain facilities and programs not to be licensed.  
630.715. Licensing of residential facilities and day programs — fee — affidavit.  
630.735. License required.  
632.005. Definitions.  
632.105. Adults to be accepted for evaluation, when, by whom — may then be admitted to mental health facility — consent required.  
632.110. Minors to be accepted for evaluation, when, by whom — may then be admitted to mental health facility — parent or guardian to consent — peace officer may transport to facility, when.  
632.115. Juveniles to be admitted by heads of facilities when committed.  
632.120. Incompetents to be accepted by heads of facilities upon application — duration of admission for evaluation — consent may be authorized.  
632.370. Transfer of patient by department — hearing on transfer of minor to adult ward — consent required — notice to be given — considerations — transfer to federal facility, notice, restrictions.  
632.380. Provisions of chapter not to apply to certain persons.

- 633.005. Definitions.
- 633.010. Responsibilities, powers, functions and duties of division.
- 633.020. Advisory council on developmental disabilities — members, number, terms, qualifications, appointment — organization, meetings — duties.
- 633.029. Definition to determine status of eligibility.
- 633.030. Department to develop state plan, contents.
- 633.045. Duties of regional advisory councils — plans.
- 633.050. Regional councils to review, advise and recommend — duties.
- 633.110. What services may be provided — consent required, when.
- 633.115. Entities to be used by regional centers.
- 633.120. Referral for admission to facility, when — admission or rejection, appeal — consent.
- 633.125. Discharge from facility, when — may be denied, procedure thereafter — referral to regional center for placement, when.
- 633.130. Evaluation of residents required — discharge thereafter.
- 633.135. Refusal of consent for placement or discharge, effect — procedure — department director to make final determination — appeal, procedure — burden of proof.
- 633.140. Return of absentee, procedure.
- 633.145. Transfer of patient between facilities by department — notice, consent.
- 633.150. Transfer of patient to mental health facility by head of developmental disability facility, how.
- 633.155. Admission for respite care for limited time only.
- 633.160. Emergency admission may be made, duration, conditions.
- 633.180. Cash stipend, eligibility, amount, payment, use — application.
- 633.185. Family support loan program — interest rate — amount — application — family support loan program fund created.
- 633.190. Promulgation of rules.
- 633.210. Office of autism services established, duties — autism spectrum disorder defined.
- 633.300. Group homes and facilities subject to federal and state law — workers subject to training requirements — rulemaking authority.
- 633.303. Termination of workers on disqualification registry.
- 633.309. No transfer to homes or facilities with noncompliance notices.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 8.241, 178.900, 189.010, 189.065, 192.005, 198.012, 205.968, 208.151, 208.275, 208.955, 210.101, 210.496, 210.900, 211.031, 211.202, 211.203, 211.206, 211.207, 211.447, 301.143, 332.021, 334.120, 453.070, 475.121, 475.355, 476.537, 552.015, 552.020, 552.030, 552.040, 630.003, 630.005, 630.010, 630.053, 630.095, 630.097, 630.120, 630.165, 630.167, 630.183, 630.192, 630.210, 630.335, 630.405, 630.425, 630.510, 630.605, 630.610, 630.635, 630.705, 630.715, 630.735, 632.005, 632.105, 632.110, 632.115, 632.120, 632.370, 632.380, 633.005, 633.010, 633.020, 633.029, 633.030, 633.045, 633.050, 633.110, 633.115, 633.120, 633.125, 633.130, 633.135, 633.140, 633.145, 633.150, 633.155, 633.160, 633.180, 633.185, 633.190, 633.210, 633.300, 633.303, and 633.309, RSMo, are repealed and eighty-six new sections enacted in lieu thereof, to be known as sections 8.241, 162.946, 178.900, 189.010, 189.065, 192.005, 198.012, 205.968, 208.151, 208.275, 208.955, 210.101, 210.105, 210.496, 210.900, 211.031, 211.202, 211.203, 211.206, 211.207, 211.447, 301.143, 332.021, 334.120, 453.070, 475.121, 475.355, 476.537, 552.015, 552.020, 552.030, 552.040, 630.003, 630.005, 630.010, 630.053, 630.095, 630.097, 630.120, 630.165, 630.167, 630.183, 630.192, 630.210, 630.335, 630.405, 630.425, 630.510, 630.605, 630.610, 630.635, 630.705, 630.715, 630.735, 632.005, 632.105, 632.110, 632.115, 632.120, 632.370, 632.380, 633.005, 633.010, 633.020, 633.029, 633.030, 633.045, 633.050, 633.110, 633.115, 633.120, 633.125, 633.130, 633.135, 633.140, 633.145, 633.150, 633.155, 633.160, 633.180, 633.185, 633.190, 633.210, 633.300, 633.303, and 633.309, to read as follows:

**8.241. CERTAIN LAND IN ST. LOUIS CITY — RESTRICTIONS.** — 1. In addition to other provisions of law relating to title to and conveyance of real property by the state, and notwithstanding any provisions of chapter 8 to the contrary, if the state should ever purchase or otherwise acquire ownership of real property located in a city not within a county as described in subsection 2 of this section, the state shall:

(1) Use, operate and maintain such property in full compliance with all applicable deed restrictions encumbering the property;

(2) Operate, maintain and use the property exclusively by the department of mental health for the purpose of housing no more than six employed and employable [mentally retarded or developmentally disabled] adults **with an intellectual disability or developmental disability**, and for no other purpose and by no other state agency, in whole or in part;

(3) Not sell or otherwise transfer ownership of the property, unless such property is sold or transferred solely for private, single-family residential use, which shall not be deemed to include, without limitation, any sale, transfer or conveyance of ownership of the property to any other state agency or department or program.

2. The property subject to the provisions of this section is more particularly described as follows: A parcel of real estate situated in Lot 20 in Block A of Compton Heights and in Block No. 1365 of the City of St. Louis, fronting 100 feet 0-3/8 inches on the North line of Longfellow Boulevard by a depth Northwardly on the east line of a 160 square foot and 159 feet 5 inches on the West line to the North line of said lot on which there is a frontage of 100 feet bounded East by Compton Avenue together with all improvements thereon, known as and numbered 3205 Longfellow Boulevard.

**162.946. DISABILITY HISTORY AND AWARENESS INSTRUCTION, SCHOOL BOARD MAY REQUIRE — OCTOBER DESIGNATED DISABILITY HISTORY AND AWARENESS MONTH — CONTENT AND GOALS OF INSTRUCTION. — 1. Each district school board may require schools within the district to provide disability history and awareness instruction in all K-12 public schools during the month of October of each year. The month of October shall be designated "Disability History and Awareness Month".**

**2. During disability history and awareness month, students may be provided instruction to expand their knowledge, understanding, and awareness of individuals with disabilities, the history of disability, and the disability rights movement.**

**3. Disability history may include the events and time lines of the development and evolution of services to, and the civil rights of, individuals with disabilities. Disability history may also include the contributions of specific individuals with disabilities, including the contributions of acknowledged national leaders. The instruction may be integrated into the existing school curriculum in ways including, but not limited to, supplementing lesson plans, inviting classroom and assembly speakers with experience or expertise on disabilities, or providing other school-related activities. The instruction may be delivered by qualified school personnel or by knowledgeable guest speakers.**

**4. The goals of the disability history and awareness instruction include:**

**(1) Instilling in students sensitivity for fellow students with disabilities and encouraging educational cultures that nurture safe and inclusive environments for students with disabilities in which bullying is discouraged and respect and appreciation for students with disabilities is encouraged;**

**(2) An understanding that disability is a natural part of the human experience; we are all more alike than different; and regardless of disability, every citizen is afforded the same rights and responsibilities as that of any other;**

**(3) The creation of a more inclusive school community, where students with disabilities are included in every aspect of society, and every student is acknowledged for their unique gifts, talents, and contributions; and**

**(4) Reaffirmation of the local, state, and federal commitment to the full inclusion in society of, and the equal opportunity for, all individuals with disabilities.**

The department of elementary and secondary education may identify and adopt preliminary guidelines for each district school board to use to develop its curriculum that

incorporates these goals for the disability history and awareness instruction. In respect of local control, school districts are encouraged to exercise innovation that accomplishes the above-stated goals.

5. Institutions of higher education within the state are encouraged to conduct and promote activities on individual campuses that provide education, understanding, and awareness of individuals with disabilities.

**178.900. DEFINITIONS.** — For the purposes of sections 178.900 to [178.970] **178.960** the following words mean:

- (1) "Department", the department of elementary and secondary education;
- (2) "[Handicapped] **Disabled** persons", a lower range educable or upper range trainable [mentally retarded] **developmentally disabled** or other [handicapped] **disabled** person sixteen years of age or over who has had school training and has a productive work capacity in a sheltered environment adapted to the abilities of [the mentally retarded] **persons with a developmental disability** but whose limited capabilities make him **or her** nonemployable in competitive business and industry and unsuited for vocational rehabilitation training;
- (3) "Sheltered workshop", an occupation-oriented facility operated by a not-for-profit corporation, which, except for its staff, employs only [handicapped] persons **with disabilities** and has a minimum enrollment of at least fifteen employable [handicapped] persons **with disabilities**;
- (4) "Staff", employees of a sheltered workshop engaged in management, work procurement, purchasing, supervision, sales, bookkeeping, and secretarial and clerical functions.

**189.010. DEFINITIONS — FUNDS INTENDED FOR POOR PATIENTS — PATIENTS THAT ARE INELIGIBLE.** — 1. As used in sections 189.010 to 189.085, unless the context clearly indicates otherwise, the following terms mean:

- (1) "Approved provider", hospitals, clinics, laboratories, or other health personnel or facilities meeting standards to be established under the provisions of sections 189.010 to 189.085;
- (2) "Department", the department of social services of the state of Missouri;
- (3) "Director", the director of the department of social services of the state of Missouri or his duly authorized representative;
- (4) "High risk patient", a woman of childbearing age who has any condition, or is at risk of developing some condition, medically or otherwise known to predispose to premature birth or to produce [mental retardation] **developmental disability**; or any infant or child who has any condition, or is at risk of developing some condition, medically known to predispose to [mental retardation] **developmental disability**;
- (5) "Person", any individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose or organization of any kind, including any governmental agency other than the United States or the state of Missouri;
- (6) "Region", contiguous geographic areas of the state larger than single counties where health programs including special services for high risk patients can be developed efficiently and economically;
- (7) "Service", any medical, surgical, corrective, diagnostic procedure, or hospitalization, and related activity to correct high risk conditions including all things reasonably incident and necessary to make the service available to the high risk patient;
- (8) "Special services", diagnostic and treatment services which may not be efficiently or economically developed as a regular component of a hospital or clinic either because of high cost or infrequent demand but which may be required for high risk patients; such services would include, but not be limited to, intensive care units for the care of premature infants and intra-uterine fetal monitoring.



2. Expenditures for the operation of a hospital include, but are not limited to, amounts paid in connection with inpatient care in the hospital; ambulatory or emergency care provided by the hospital; ambulance services used in the transportation of patients to the hospital or among hospitals; administration of the hospital; maintenance and repairs of the hospital; depreciation of hospital capital assets; food, drugs, equipment and other supplies used by the hospital; and recruitment, selection and training of physician, nursing, allied health and other hospital personnel.

3. Funds approved under the provisions of sections 189.010 to 189.085 are not restricted for paying certain operating costs, or groups of costs, but are intended to supplement the appropriations from the local governmental agency for poor patients. Patients eligible for Medicare, Medicaid and other third party insurance are not eligible under this chapter.

**189.065. SPECIAL NEED AREAS, EXPENDITURES FOR.** — The department is authorized and directed to work with public and private institutions and agencies or persons to insure that special services will be available in all regions of the state, both rural and metropolitan. Whenever services or special services required for the purposes of sections 189.010 to 189.085 are not available, the department is authorized to use up to ten percent of the funds appropriated for the purposes of sections 189.010 to 189.085 to assist in establishing the facilities and professional staff required. For the purposes of implementing this section, the department and the advisory committees shall give special consideration to those areas of the state or population groups which demonstrate the highest incidence of [mental retardation] **developmental disability** or where accessibility to services or special services may be limited because of distance.

**192.005. DEPARTMENT OF HEALTH AND SENIOR SERVICES CREATED — DIVISION OF HEALTH ABOLISHED — DUTIES.** — There is hereby created and established as a department of state government the "Department of Health and Senior Services". The department of health and senior services shall supervise and manage all public health functions and programs. The department shall be governed by the provisions of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo, unless otherwise provided in sections 192.005 to 192.014. The division of health of the department of social services, chapter 191, this chapter, and others, including, but not limited to, such agencies and functions as the state health planning and development agency, the crippled children's service, chapter 201, the bureau and the program for the prevention of [mental retardation] **developmental disability**, the hospital subsidy program, chapter 189, the state board of health, section 191.400, the student loan program, sections 191.500 to 191.550, the family practice residency program, [sections 191.575 to 191.590,] the licensure and certification of hospitals, chapter 197, the Missouri chest hospital, sections 199.010 to 199.070, are hereby transferred to the department of health and senior services by a type I transfer, and the state cancer center and cancer commission, chapter 200, is hereby transferred to the department of health and senior services by a type III transfer as such transfers are defined in section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo Supp. 1984. The provisions of section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo Supp. 1984, relating to the manner and procedures for transfers of state agencies shall apply to the transfers provided in this section. The division of health of the department of social services is abolished.

**198.012. PROVISIONS OF SECTIONS 198.003 TO 198.136 NOT TO APPLY, WHEN — EXEMPT ENTITIES MAY BE LICENSED.** — 1. The provisions of sections 198.003 to 198.136 shall not apply to any of the following entities:

- (1) Any hospital, facility or other entity operated by the state or the United States;
- (2) Any facility or other entity otherwise licensed by the state and operating exclusively under such license and within the limits of such license, unless the activities and services are or are held out as being activities or services normally provided by a licensed facility under sections

198.003 to 198.186, 198.200, 208.030, and 208.159, except hospitals licensed under the provisions of chapter 197;

(3) Any hospital licensed under the provisions of chapter 197, provided that the assisted living facility, intermediate care facility or skilled nursing facility are physically attached to the acute care hospital; and provided further that the department of health and senior services in promulgating rules, regulations and standards pursuant to section 197.080, with respect to such facilities, shall establish requirements and standards for such hospitals consistent with the intent of this chapter, and sections 198.067, 198.070, 198.090, 198.093 and 198.139 to 198.180 shall apply to every assisted living facility, intermediate care facility or skilled nursing facility regardless of physical proximity to any other health care facility;

(4) Any facility licensed pursuant to sections 630.705 to 630.760 which provides care, treatment, habilitation and rehabilitation exclusively to persons who have a primary diagnosis of mental disorder, mental illness, [mental retardation] or developmental disabilities, as defined in section 630.005;

(5) Any provider of care under a life care contract, except to any portion of the provider's premises on which the provider offers services provided by an intermediate care facility or skilled nursing facility as defined in section 198.006. For the purposes of this section, "provider of care under a life care contract" means any person contracting with any individual to furnish specified care and treatment to the individual for the life of the individual, with significant prepayment for such care and treatment.

2. Nothing in this section shall prohibit any of these entities from applying for a license under sections 198.003 to 198.136.

**205.968. FACILITIES AUTHORIZED — PERSONS TO BE SERVED, LIMITATIONS, DEFINITIONS.** — 1. As set forth in section 205.971, when a levy is approved by the voters, the governing body of any county or city not within a county of this state shall establish a board of directors. The board of directors shall be a legal entity empowered to establish and/or operate a sheltered workshop as defined in section 178.900, residence facilities, or related services, for the care or employment, or both, of [handicapped] persons **with a disability**. The facility may operate at one or more locations in the county or city not within a county. Once established, the board may, in its own name engage in and contract for any and all types of services, actions or endeavors, not contrary to the law, necessary to the successful and efficient prosecution and continuation of the business and purposes for which it is created, and may purchase, receive, lease or otherwise acquire, own, hold, improve, use, sell, convey, exchange, transfer, and otherwise dispose of real and personal property, or any interest therein, or other assets wherever situated and may incur liability and may borrow money at rates of interest up to the market rate published by the Missouri division of finance. The board shall be taken and considered as a "political subdivision" as the term is defined in section 70.600 for the purposes of sections 70.600 to 70.755.

2. Services may only be provided for those persons defined as [handicapped] persons **with a disability** in section 178.900 and those persons defined as [handicapped] persons **with a disability** in this section whether or not employed at the facility or in the community, and for persons who are [handicapped] **disabled** due to developmental disability. Persons having substantial functional limitations due to a mental illness as defined in section 630.005 shall not be eligible for services under the provisions of sections 205.968 to 205.972 except that those persons may participate in services under the provisions of sections 205.968 to 205.972. All persons otherwise eligible for facilities or services under this section shall be eligible regardless of their age; except that, individuals employed in sheltered workshops must be at least sixteen years of age. The board may, in its discretion, impose limitations with respect to individuals to be served and services to be provided. Such limitations shall be reasonable in the light of available funds, needs of the

persons and community to be served as assessed by the board, and the appropriateness and efficiency of combining services to persons with various types of [handicaps or] disabilities.

3. For the purposes of sections 205.968 to 205.972, the term

(1) "Developmental disability" shall mean either or both paragraph (a) or (b) of this subsection:

(a) A disability which is attributable to mental retardation, cerebral palsy, autism, epilepsy, a learning disability related to a brain dysfunction or a similar condition found by comprehensive evaluation to be closely related to such conditions, or to require habilitation similar to that required for mentally retarded persons; and

a. Which originated before age eighteen; and

b. Which can be expected to continue indefinitely;

(b) A developmental disability as defined in section 630.005;

(2) "[Handicapped] Person **with a disability**" shall mean a person who is lower range educable or upper range trainable mentally retarded or a person who has a developmental disability.

**208.151. MEDICAL ASSISTANCE, PERSONS ELIGIBLE — RULEMAKING AUTHORITY.** — 1. Medical assistance on behalf of needy persons shall be known as "MO HealthNet". For the purpose of paying MO HealthNet benefits and to comply with Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. Section 301, et seq.) as amended, the following needy persons shall be eligible to receive MO HealthNet benefits to the extent and in the manner hereinafter provided:

(1) All participants receiving state supplemental payments for the aged, blind and disabled;

(2) All participants receiving aid to families with dependent children benefits, including all persons under nineteen years of age who would be classified as dependent children except for the requirements of subdivision (1) of subsection 1 of section 208.040. Participants eligible under this subdivision who are participating in drug court, as defined in section 478.001, shall have their eligibility automatically extended sixty days from the time their dependent child is removed from the custody of the participant, subject to approval of the Centers for Medicare and Medicaid Services;

(3) All participants receiving blind pension benefits;

(4) All persons who would be determined to be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits under the eligibility standards in effect December 31, 1973, or less restrictive standards as established by rule of the family support division, who are sixty-five years of age or over and are patients in state institutions for mental diseases or tuberculosis;

(5) All persons under the age of twenty-one years who would be eligible for aid to families with dependent children except for the requirements of subdivision (2) of subsection 1 of section 208.040, and who are residing in an intermediate care facility, or receiving active treatment as inpatients in psychiatric facilities or programs, as defined in 42 U.S.C. 1396d, as amended;

(6) All persons under the age of twenty-one years who would be eligible for aid to families with dependent children benefits except for the requirement of deprivation of parental support as provided for in subdivision (2) of subsection 1 of section 208.040;

(7) All persons eligible to receive nursing care benefits;

(8) All participants receiving family foster home or nonprofit private child-care institution care, subsidized adoption benefits and parental school care wherein state funds are used as partial or full payment for such care;

(9) All persons who were participants receiving old age assistance benefits, aid to the permanently and totally disabled, or aid to the blind benefits on December 31, 1973, and who continue to meet the eligibility requirements, except income, for these assistance categories, but

who are no longer receiving such benefits because of the implementation of Title XVI of the federal Social Security Act, as amended;

(10) Pregnant women who meet the requirements for aid to families with dependent children, except for the existence of a dependent child in the home;

(11) Pregnant women who meet the requirements for aid to families with dependent children, except for the existence of a dependent child who is deprived of parental support as provided for in subdivision (2) of subsection 1 of section 208.040;

(12) Pregnant women or infants under one year of age, or both, whose family income does not exceed an income eligibility standard equal to one hundred eighty-five percent of the federal poverty level as established and amended by the federal Department of Health and Human Services, or its successor agency;

(13) Children who have attained one year of age but have not attained six years of age who are eligible for medical assistance under 6401 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989). The family support division shall use an income eligibility standard equal to one hundred thirty-three percent of the federal poverty level established by the Department of Health and Human Services, or its successor agency;

(14) Children who have attained six years of age but have not attained nineteen years of age. For children who have attained six years of age but have not attained nineteen years of age, the family support division shall use an income assessment methodology which provides for eligibility when family income is equal to or less than equal to one hundred percent of the federal poverty level established by the Department of Health and Human Services, or its successor agency. As necessary to provide MO HealthNet coverage under this subdivision, the department of social services may revise the state MO HealthNet plan to extend coverage under 42 U.S.C. 1396a (a)(10)(A)(i)(III) to children who have attained six years of age but have not attained nineteen years of age as permitted by paragraph (2) of subsection (n) of 42 U.S.C. 1396d using a more liberal income assessment methodology as authorized by paragraph (2) of subsection (r) of 42 U.S.C. 1396a;

(15) The family support division shall not establish a resource eligibility standard in assessing eligibility for persons under subdivision (12), (13) or (14) of this subsection. The MO HealthNet division shall define the amount and scope of benefits which are available to individuals eligible under each of the subdivisions (12), (13), and (14) of this subsection, in accordance with the requirements of federal law and regulations promulgated thereunder;

(16) Notwithstanding any other provisions of law to the contrary, ambulatory prenatal care shall be made available to pregnant women during a period of presumptive eligibility pursuant to 42 U.S.C. Section 1396r-1, as amended;

(17) A child born to a woman eligible for and receiving MO HealthNet benefits under this section on the date of the child's birth shall be deemed to have applied for MO HealthNet benefits and to have been found eligible for such assistance under such plan on the date of such birth and to remain eligible for such assistance for a period of time determined in accordance with applicable federal and state law and regulations so long as the child is a member of the woman's household and either the woman remains eligible for such assistance or for children born on or after January 1, 1991, the woman would remain eligible for such assistance if she were still pregnant. Upon notification of such child's birth, the family support division shall assign a MO HealthNet eligibility identification number to the child so that claims may be submitted and paid under such child's identification number;

(18) Pregnant women and children eligible for MO HealthNet benefits pursuant to subdivision (12), (13) or (14) of this subsection shall not as a condition of eligibility for MO HealthNet benefits be required to apply for aid to families with dependent children. The family support division shall utilize an application for eligibility for such persons which eliminates information requirements other than those necessary to apply for MO HealthNet benefits. The division shall provide such application forms to applicants whose preliminary income information

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indicates that they are ineligible for aid to families with dependent children. Applicants for MO HealthNet benefits under subdivision (12), (13) or (14) **of this subsection** shall be informed of the aid to families with dependent children program and that they are entitled to apply for such benefits. Any forms utilized by the family support division for assessing eligibility under this chapter shall be as simple as practicable;

(19) Subject to appropriations necessary to recruit and train such staff, the family support division shall provide one or more full-time, permanent eligibility specialists to process applications for MO HealthNet benefits at the site of a health care provider, if the health care provider requests the placement of such eligibility specialists and reimburses the division for the expenses including but not limited to salaries, benefits, travel, training, telephone, supplies, and equipment, of such eligibility specialists. The division may provide a health care provider with a part-time or temporary eligibility specialist at the site of a health care provider if the health care provider requests the placement of such an eligibility specialist and reimburses the division for the expenses, including but not limited to the salary, benefits, travel, training, telephone, supplies, and equipment, of such an eligibility specialist. The division may seek to employ such eligibility specialists who are otherwise qualified for such positions and who are current or former welfare participants. The division may consider training such current or former welfare participants as eligibility specialists for this program;

(20) Pregnant women who are eligible for, have applied for and have received MO HealthNet benefits under subdivision (2), (10), (11) or (12) of this subsection shall continue to be considered eligible for all pregnancy-related and postpartum MO HealthNet benefits provided under section 208.152 until the end of the sixty-day period beginning on the last day of their pregnancy;

(21) Case management services for pregnant women and young children at risk shall be a covered service. To the greatest extent possible, and in compliance with federal law and regulations, the department of health and senior services shall provide case management services to pregnant women by contract or agreement with the department of social services through local health departments organized under the provisions of chapter 192 or chapter 205 or a city health department operated under a city charter or a combined city-county health department or other department of health and senior services designees. To the greatest extent possible the department of social services and the department of health and senior services shall mutually coordinate all services for pregnant women and children with the crippled children's program, the prevention of [mental retardation] **intellectual disability and developmental disability** program and the prenatal care program administered by the department of health and senior services. The department of social services shall by regulation establish the methodology for reimbursement for case management services provided by the department of health and senior services. For purposes of this section, the term "case management" shall mean those activities of local public health personnel to identify prospective MO HealthNet-eligible high-risk mothers and enroll them in the state's MO HealthNet program, refer them to local physicians or local health departments who provide prenatal care under physician protocol and who participate in the MO HealthNet program for prenatal care and to ensure that said high-risk mothers receive support from all private and public programs for which they are eligible and shall not include involvement in any MO HealthNet prepaid, case-managed programs;

(22) By January 1, 1988, the department of social services and the department of health and senior services shall study all significant aspects of presumptive eligibility for pregnant women and submit a joint report on the subject, including projected costs and the time needed for implementation, to the general assembly. The department of social services, at the direction of the general assembly, may implement presumptive eligibility by regulation promulgated pursuant to chapter 207;

(23) All participants who would be eligible for aid to families with dependent children benefits except for the requirements of paragraph (d) of subdivision (1) of section 208.150;

(24) (a) All persons who would be determined to be eligible for old age assistance benefits under the eligibility standards in effect December 31, 1973, as authorized by 42 U.S.C. Section 1396a(f), or less restrictive methodologies as contained in the MO HealthNet state plan as of January 1, 2005; except that, on or after July 1, 2005, less restrictive income methodologies, as authorized in 42 U.S.C. Section 1396a(r)(2), may be used to change the income limit if authorized by annual appropriation;

(b) All persons who would be determined to be eligible for aid to the blind benefits under the eligibility standards in effect December 31, 1973, as authorized by 42 U.S.C. Section 1396a(f), or less restrictive methodologies as contained in the MO HealthNet state plan as of January 1, 2005, except that less restrictive income methodologies, as authorized in 42 U.S.C. Section 1396a(r)(2), shall be used to raise the income limit to one hundred percent of the federal poverty level;

(c) All persons who would be determined to be eligible for permanent and total disability benefits under the eligibility standards in effect December 31, 1973, as authorized by 42 U.S.C. 1396a(f); or less restrictive methodologies as contained in the MO HealthNet state plan as of January 1, 2005; except that, on or after July 1, 2005, less restrictive income methodologies, as authorized in 42 U.S.C. Section 1396a(r)(2), may be used to change the income limit if authorized by annual appropriations. Eligibility standards for permanent and total disability benefits shall not be limited by age;

(25) Persons who have been diagnosed with breast or cervical cancer and who are eligible for coverage pursuant to 42 U.S.C. 1396a (a)(10)(A)(ii)(XVIII). Such persons shall be eligible during a period of presumptive eligibility in accordance with 42 U.S.C. 1396r-1;

(26) Persons who are independent foster care adolescents, as defined in 42 U.S.C. Section 1396d, or who are within reasonable categories of such adolescents who are under twenty-one years of age as specified by the state, are eligible for coverage under 42 U.S.C. Section 1396a (a)(10)(A)(ii)(XVII) without regard to income or assets.

2. Rules and regulations to implement this section shall be promulgated in accordance with section 431.064 and chapter 536. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

3. After December 31, 1973, and before April 1, 1990, any family eligible for assistance pursuant to 42 U.S.C. 601, et seq., as amended, in at least three of the last six months immediately preceding the month in which such family became ineligible for such assistance because of increased income from employment shall, while a member of such family is employed, remain eligible for MO HealthNet benefits for four calendar months following the month in which such family would otherwise be determined to be ineligible for such assistance because of income and resource limitation. After April 1, 1990, any family receiving aid pursuant to 42 U.S.C. 601, et seq., as amended, in at least three of the six months immediately preceding the month in which such family becomes ineligible for such aid, because of hours of employment or income from employment of the caretaker relative, shall remain eligible for MO HealthNet benefits for six calendar months following the month of such ineligibility as long as such family includes a child as provided in 42 U.S.C. 1396r-6. Each family which has received such medical assistance during the entire six-month period described in this section and which meets reporting requirements and income tests established by the division and continues to include a child as provided in 42 U.S.C. 1396r-6 shall receive MO HealthNet benefits without fee for an additional six months. The MO HealthNet division may provide by rule and as authorized by annual appropriation the scope of MO HealthNet coverage to be granted to such families.

4. When any individual has been determined to be eligible for MO HealthNet benefits, such medical assistance will be made available to him or her for care and services furnished in or after the third month before the month in which he made application for such assistance if such individual was, or upon application would have been, eligible for such assistance at the time such care and services were furnished; provided, further, that such medical expenses remain unpaid.

5. The department of social services may apply to the federal Department of Health and Human Services for a MO HealthNet waiver amendment to the Section 1115 demonstration waiver or for any additional MO HealthNet waivers necessary not to exceed one million dollars in additional costs to the state, unless subject to appropriation or directed by statute, but in no event shall such waiver applications or amendments seek to waive the services of a rural health clinic or a federally qualified health center as defined in 42 U.S.C. 1396d(l)(1) and (2) or the payment requirements for such clinics and centers as provided in 42 U.S.C. 1396a(a)(15) and 1396a(bb) unless such waiver application is approved by the oversight committee created in section 208.955. A request for such a waiver so submitted shall only become effective by executive order not sooner than ninety days after the final adjournment of the session of the general assembly to which it is submitted, unless it is disapproved within sixty days of its submission to a regular session by a senate or house resolution adopted by a majority vote of the respective elected members thereof, unless the request for such a waiver is made subject to appropriation or directed by statute.

6. Notwithstanding any other provision of law to the contrary, in any given fiscal year, any persons made eligible for MO HealthNet benefits under subdivisions (1) to (22) of subsection 1 of this section shall only be eligible if annual appropriations are made for such eligibility. This subsection shall not apply to classes of individuals listed in 42 U.S.C. Section 1396a(a)(10)(A)(i).

**208.275. COORDINATING COUNCIL ON SPECIAL TRANSPORTATION, CREATION — MEMBERS, QUALIFICATIONS, APPOINTMENT, TERMS, EXPENSES — STAFF — POWERS — DUTIES.** — 1. As used in this section, unless the context otherwise indicates, the following terms mean:

- (1) "Elderly", any person who is sixty years of age or older;
- (2) "[Handicapped] **Person with a disability**", any person having a physical or mental condition, either permanent or temporary, which would substantially impair ability to operate or utilize available transportation.

2. There is hereby created the "Coordinating Council on Special Transportation" within the Missouri department of transportation. The members of the council shall be: two members of the senate appointed by the president pro tem, who shall be from different political parties; two members of the house of representatives appointed by the speaker, who shall be from different political parties; the assistant for transportation of the Missouri department of transportation, or his designee; the assistant commissioner of the department of elementary and secondary education, responsible for special transportation, or his designee; the director of the division of aging of the department of social services, or his designee; the deputy director for [mental retardation] developmental disabilities and the deputy director for administration of the department of mental health, or their designees; the executive secretary of the governor's committee on the employment of the [handicapped] **persons with a disability**; and seven consumer representatives appointed by the governor by and with the advice and consent of the senate, four of the consumer representatives shall represent the elderly and three shall represent [the handicapped] **persons with a disability**. Two of such three members representing [handicapped] **persons with a disability** shall represent those with physical [handicaps] **disabilities**. Consumer representatives appointed by the governor shall serve for terms of three years or until a successor is appointed and qualified. Of the members first selected, two shall be selected for a term of three years, two shall be selected for a term of two years, and three shall be selected for a term of one year. In the event of the death or resignation of

any member, his successor shall be appointed to serve for the unexpired period of the term for which such member had been appointed.

3. State agency personnel shall serve on the council without additional appropriations or compensation. The consumer representatives shall serve without compensation except for receiving reimbursement for the reasonable and necessary expenses incurred in the performance of their duties on the council from funds appropriated to the department of transportation. Legislative members shall be reimbursed by their respective appointing bodies out of the contingency fund for such body for necessary expenses incurred in the performance of their duties.

4. Staff for the council shall be provided by the Missouri department of transportation. The department shall designate a special transportation coordinator who shall have had experience in the area of special transportation, as well as such other staff as needed to enable the council to perform its duties.

5. The council shall meet at least quarterly each year and shall elect from its members a chairman and a vice chairman.

6. The coordinating council on special transportation shall:

- (1) Recommend and periodically review policies for the coordinated planning and delivery of special transportation when appropriate;
- (2) Identify special transportation needs and recommend agency funding allocations and resources to meet these needs when appropriate;
- (3) Identify legal and administrative barriers to effective service delivery;
- (4) Review agency methods for distributing funds within the state and make recommendations when appropriate;
- (5) Review agency funding criteria and make recommendations when appropriate;
- (6) Review area transportation plans and make recommendations for plan format and content;
- (7) Establish measurable objectives for the delivery of transportation services;
- (8) Review annual performance data and make recommendations for improved service delivery, operating procedures or funding when appropriate;
- (9) Review local disputes and conflicts on special transportation and recommend solutions.

**208.955. COMMITTEE ESTABLISHED, MEMBERS, DUTIES — ISSUANCE OF FINDINGS — SUBCOMMITTEE DESIGNATED, DUTIES, MEMBERS. —** 1. There is hereby established in the department of social services the "MO HealthNet Oversight Committee", which shall be appointed by January 1, 2008, and shall consist of [eighteen] **nineteen** members as follows:

(1) Two members of the house of representatives, one from each party, appointed by the speaker of the house of representatives and the minority floor leader of the house of representatives;

(2) Two members of the Senate, one from each party, appointed by the president pro tem of the senate and the minority floor leader of the senate;

(3) One consumer representative **who has no financial interest in the health care industry and who has not been an employee of the state within the last five years;**

(4) Two primary care physicians, licensed under chapter 334, [recommended by any Missouri organization or association that represents a significant number of physicians licensed in this state,] who care for participants, not from the same geographic area, **chosen in the same manner as described in section 334.120;**

(5) Two physicians, licensed under chapter 334, who care for participants but who are not primary care physicians and are not from the same geographic area, [recommended by any Missouri organization or association that represents a significant number of physicians licensed in this state] **chosen in the same manner as described in section 334.120;**

(6) One representative of the state hospital association;



(7) **[One] Two nonphysician health care [professional] professionals, the first nonphysician health care professional licensed under chapter 335 and the second nonphysician health care professional licensed under chapter 337, who [cares] care for participants[, recommended by the director of the department of insurance, financial institutions and professional registration];**

(8) One dentist, who cares for participants[. The dentist shall be recommended by any Missouri organization or association that represents a significant number of dentists licensed in this state] , **chosen in the same manner as described in section 332.021;**

(9) Two patient advocates **who have no financial interest in the health care industry and who have not been employees of the state within the last five years;**

(10) One public member **who has no financial interest in the health care industry and who has not been an employee of the state within the last five years;** and

(11) The directors of the department of social services, the department of mental health, the department of health and senior services, or the respective directors' designees, who shall serve as ex-officio members of the committee.

2. The members of the oversight committee, other than the members from the general assembly and ex-officio members, shall be appointed by the governor with the advice and consent of the senate. A chair of the oversight committee shall be selected by the members of the oversight committee. Of the members first appointed to the oversight committee by the governor, eight members shall serve a term of two years, seven members shall serve a term of one year, and thereafter, members shall serve a term of two years. Members shall continue to serve until their successor is duly appointed and qualified. Any vacancy on the oversight committee shall be filled in the same manner as the original appointment. Members shall serve on the oversight committee without compensation but may be reimbursed for their actual and necessary expenses from moneys appropriated to the department of social services for that purpose. The department of social services shall provide technical, actuarial, and administrative support services as required by the oversight committee. The oversight committee shall:

(1) Meet on at least four occasions annually, including at least four before the end of December of the first year the committee is established. Meetings can be held by telephone or video conference at the discretion of the committee;

(2) Review the participant and provider satisfaction reports and the reports of health outcomes, social and behavioral outcomes, use of evidence-based medicine and best practices as required of the health improvement plans and the department of social services under section 208.950;

(3) Review the results from other states of the relative success or failure of various models of health delivery attempted;

(4) Review the results of studies comparing health plans conducted under section 208.950;

(5) Review the data from health risk assessments collected and reported under section 208.950;

(6) Review the results of the public process input collected under section 208.950;

(7) Advise and approve proposed design and implementation proposals for new health improvement plans submitted by the department, as well as make recommendations and suggest modifications when necessary;

(8) Determine how best to analyze and present the data reviewed under section 208.950 so that the health outcomes, participant and provider satisfaction, results from other states, health plan comparisons, financial impact of the various health improvement plans and models of care, study of provider access, and results of public input can be used by consumers, health care providers, and public officials;

(9) Present significant findings of the analysis required in subdivision (8) of this subsection in a report to the general assembly and governor, at least annually, beginning January 1, 2009;

(10) Review the budget forecast issued by the legislative budget office, and the report required under subsection (22) of subsection 1 of section 208.151, and after study:

- (a) Consider ways to maximize the federal drawdown of funds;
- (b) Study the demographics of the state and of the MO HealthNet population, and how those demographics are changing;
- (c) Consider what steps are needed to prepare for the increasing numbers of participants as a result of the baby boom following World War II;

(11) Conduct a study to determine whether an office of inspector general shall be established. Such office would be responsible for oversight, auditing, investigation, and performance review to provide increased accountability, integrity, and oversight of state medical assistance programs, to assist in improving agency and program operations, and to deter and identify fraud, abuse, and illegal acts. The committee shall review the experience of all states that have created a similar office to determine the impact of creating a similar office in this state; and

(12) Perform other tasks as necessary, including but not limited to making recommendations to the division concerning the promulgation of rules and emergency rules so that quality of care, provider availability, and participant satisfaction can be assured.

3. By July 1, 2011, the oversight committee shall issue findings to the general assembly on the success and failure of health improvement plans and shall recommend whether or not any health improvement plans should be discontinued.

4. The oversight committee shall designate a subcommittee devoted to advising the department on the development of a comprehensive entry point system for long-term care that shall:

- (1) Offer Missourians an array of choices including community-based, in-home, residential and institutional services;
- (2) Provide information and assistance about the array of long-term care services to Missourians;
- (3) Create a delivery system that is easy to understand and access through multiple points, which shall include but shall not be limited to providers of services;
- (4) Create a delivery system that is efficient, reduces duplication, and streamlines access to multiple funding sources and programs;
- (5) Strengthen the long-term care quality assurance and quality improvement system;
- (6) Establish a long-term care system that seeks to achieve timely access to and payment for care, foster quality and excellence in service delivery, and promote innovative and cost-effective strategies; and
- (7) Study one-stop shopping for seniors as established in section 208.612.

5. The subcommittee shall include the following members:

- (1) The lieutenant governor or his or her designee, who shall serve as the subcommittee chair;
  - (2) One member from a Missouri area agency on aging, designated by the governor;
  - (3) One member representing the in-home care profession, designated by the governor;
  - (4) One member representing residential care facilities, predominantly serving MO HealthNet participants, designated by the governor;
  - (5) One member representing assisted living facilities or continuing care retirement communities, predominantly serving MO HealthNet participants, designated by the governor;
  - (6) One member representing skilled nursing facilities, predominantly serving MO HealthNet participants, designated by the governor;
  - (7) One member from the office of the state ombudsman for long-term care facility residents, designated by the governor;
  - (8) One member representing Missouri centers for independent living, designated by the governor;
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- (9) One consumer representative with expertise in services for seniors or [the disabled] **persons with a disability**, designated by the governor;
- (10) One member with expertise in Alzheimer's disease or related dementia;
- (11) One member from a county developmental disability board, designated by the governor;
- (12) One member representing the hospice care profession, designated by the governor;
- (13) One member representing the home health care profession, designated by the governor;
- (14) One member representing the adult day care profession, designated by the governor;
- (15) One member gerontologist, designated by the governor;
- (16) Two members representing the aged, blind, and disabled population, not of the same geographic area or demographic group designated by the governor;
- (17) The directors of the departments of social services, mental health, and health and senior services, or their designees; and
- (18) One member of the house of representatives and one member of the senate serving on the oversight committee, designated by the oversight committee chair.

Members shall serve on the subcommittee without compensation but may be reimbursed for their actual and necessary expenses from moneys appropriated to the department of health and senior services for that purpose. The department of health and senior services shall provide technical and administrative support services as required by the committee.

6. By October 1, 2008, the comprehensive entry point system subcommittee shall submit its report to the governor and general assembly containing recommendations for the implementation of the comprehensive entry point system, offering suggested legislative or administrative proposals deemed necessary by the subcommittee to minimize conflict of interests for successful implementation of the system. Such report shall contain, but not be limited to, recommendations for implementation of the following consistent with the provisions of section 208.950:

- (1) A complete statewide universal information and assistance system that is integrated into the web-based electronic patient health record that can be accessible by phone, in-person, via MO HealthNet providers and via the Internet that connects consumers to services or providers and is used to establish consumers' needs for services. Through the system, consumers shall be able to independently choose from a full range of home, community-based, and facility-based health and social services as well as access appropriate services to meet individual needs and preferences from the provider of the consumer's choice;
- (2) A mechanism for developing a plan of service or care via the web-based electronic patient health record to authorize appropriate services;
- (3) A preadmission screening mechanism for MO HealthNet participants for nursing home care;
- (4) A case management or care coordination system to be available as needed; and
- (5) An electronic system or database to coordinate and monitor the services provided which are integrated into the web-based electronic patient health record.

7. Starting July 1, 2009, and for three years thereafter, the subcommittee shall provide to the governor, lieutenant governor and the general assembly a yearly report that provides an update on progress made by the subcommittee toward implementing the comprehensive entry point system.

8. The provisions of section 23.253 shall not apply to sections 208.950 to 208.955.

**210.101. CHILDREN'S SERVICES COMMISSION ESTABLISHED, MEMBERS, QUALIFICATIONS — MEETINGS OPEN TO PUBLIC, NOTICE — RULES — STAFF — EX OFFICIO MEMBERS. —** 1. There is hereby established the "Missouri Children's Services Commission", which shall be composed of the following members:

- (1) The director or [deputy director of the department of labor and industrial relations and the director or deputy director of each state agency, department, division, or other entity which provides services or programs for children, including, but not limited to, the department of mental

health, the department of elementary and secondary education, the department of social services, the department of public safety and the department of health and senior services] **the director's designee of the following departments: labor and industrial relations, corrections, elementary and secondary education, higher education, health and senior services, mental health, public safety, and social services;**

(2) One judge of a **family or** juvenile court, who shall be appointed by the chief justice of the supreme court;

(3) [One judge of a family court, who shall be appointed by the chief justice of the supreme court;

(4) Four] **Two** members, [two] **one** from each political party, of the house of representatives, who shall be appointed by the speaker of the house of representatives;

[(5) Four] **(4) Two** members, [two] **one** from each political party, of the senate, who shall be appointed by the president pro tempore of the senate.

All members shall serve for as long as they hold the position which made them eligible for appointment to the Missouri children's services commission under this subsection. All members shall serve without compensation but may be reimbursed for all actual and necessary expenses incurred in the performance of their official duties for the commission.

2. All meetings of the Missouri children's services commission shall be open to the public and shall, for all purposes, be deemed open public meetings under the provisions of sections 610.010 to 610.030. The Missouri children's services commission shall meet no less than once every two months[, and shall hold its first meeting no later than sixty days after September 28, 1983]. Notice of all meetings of the commission shall be given to the general assembly in the same manner required for notifying the general public of meetings of the general assembly.

3. The Missouri children's services commission may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers.

4. The commission shall elect from amongst its members a chairman, vice chairman, a secretary-reporter, and such other officers as it deems necessary.

5. The services of the personnel of any agency from which the director or deputy director is a member of the commission shall be made available to the commission at the discretion of such director or deputy director. All meetings of the commission shall be held in the state of Missouri.

6. The officers of the commission may hire an executive director. Funding for the executive director may be provided from the Missouri children's services commission fund or other sources provided by law.

7. The commission, by majority vote, may invite individuals representing local and federal agencies or private organizations and the general public to serve as ex officio members of the commission. Such individuals shall not have a vote in commission business and shall serve without compensation but may be reimbursed for all actual and necessary expenses incurred in the performance of their official duties for the commission.

**210.105. MISSOURI TASK FORCE ON PREMATURETY AND INFANT MORTALITY CREATED — MEMBERS, OFFICERS, EXPENSES — DUTIES — REPORT — EXPIRATION DATE. — 1. There is hereby created the "Missouri Task Force on Prematurity and Infant Mortality" within the children's services commission to consist of the following eighteen members:**

**(1) The following six members of the general assembly:**

**(a) Three members of the house of representatives, with two members to be appointed by the speaker of the house and one member to be appointed by the minority leader of the house;**

(b) Three members of the senate, with two members to be appointed by the president pro tem of the senate and one member to be appointed by the minority leader of the senate;

(2) The director of the department of health and senior services, or the director's designee;

(3) The director of the department of social services, or the director's designee;

(4) The director of the department of insurance, financial institutions and professional registration, or the director's designee;

(5) One member representing a not-for-profit organization specializing in prematurity and infant mortality;

(6) Two members who shall be either a physician or nurse practitioner specializing in obstetrics and gynecology, family medicine, pediatrics or perinatology;

(7) Two consumer representatives who are parents of individuals born prematurely, including one parent of an individual under the age of eighteen;

(8) Two members representing insurance providers in the state;

(9) One small business advocate; and

(10) One member of the small business regulatory fairness board.

Members of the task force, other than the legislative members and directors of state agencies, shall be appointed by the governor with the advice and consent of the senate by September 15, 2011.

2. A majority of a quorum from among the task force membership shall elect a chair and vice-chair of the task force.

3. A majority vote of a quorum of the task force is required for any action.

4. The chairperson of the children's services commission shall convene the initial meeting of the task force by no later than October 15, 2011. The task force shall meet at least quarterly; except that the task force shall meet at least twice prior to the end of 2011. Meetings may be held by telephone or video conference at the discretion of the chair.

5. Members shall serve on the commission without compensation, but may, subject to appropriation, be reimbursed for actual and necessary expenses incurred in the performance of their official duties as members of the task force.

6. The goal of the task force is to seek evidence-based and cost-effective approaches to reduce Missouri's preterm birth and infant mortality rates.

7. The task force shall:

(1) Submit findings to the general assembly;

(2) Review appropriate and relevant evidence-based research regarding the causes and effects of prematurity and birth defects in Missouri;

(3) Examine existing public and private entities currently associated with the prevention and treatment of prematurity and infant mortality in Missouri;

(4) Develop cost-effective strategies to reduce prematurity and infant mortality; and

(5) Issue findings and propose to the appropriate public and private organizations goals, objectives, strategies, and tactics designed to reduce prematurity and infant mortality in Missouri, including recommendations on public policy for consideration during the next appropriate session of the general assembly.

8. On or before December 31, 2013, the task force shall submit a report on their findings to the governor and general assembly. The report shall include any dissenting opinions in addition to any majority opinions.

9. The task force shall expire on January 1, 2015, or upon submission of a report under subsection 8 of this section, whichever is earlier.

**210.496. REFUSAL TO ISSUE, SUSPENSION OR REVOCATION OF LICENSES — GROUNDS.**

— The division may refuse to issue either a license or a provisional license to an applicant, or may suspend or revoke the license or provisional license of a licensee, who:

- (1) Fails consistently to comply with the applicable provisions of sections 208.400 to 208.535 and the applicable rules promulgated thereunder;
- (2) Violates any of the provisions of its license;
- (3) Violates state laws or rules relating to the protection of children;
- (4) Furnishes or makes any misleading or false statements or reports to the division;
- (5) Refuses to submit to the division any reports or refuses to make available to the division any records required by the division in making an investigation;
- (6) Fails or refuses to admit authorized representatives of the division at any reasonable time for the purpose of investigation;
- (7) Fails or refuses to submit to an investigation by the division;
- (8) Fails to provide, maintain, equip, and keep in safe and sanitary condition the premises established or used for the care of children being served, as required by law, rule, or ordinance applicable to the location of the foster home or residential care facility; or
- (9) Fails to provide financial resources adequate for the satisfactory care of and services to children being served and the upkeep of the premises.

**Nothing in this section shall be construed to permit discrimination on the basis of disability or disease of an applicant. The disability or disease of an applicant shall not constitute a basis for a determination that the applicant is unfit or not suitable to be a foster parent without a specific showing that there is a causal relationship between the disability or disease and a substantial and significant risk of harm to a child or an inability to perform the duties of a foster parent.**

**210.900. DEFINITIONS.** — 1. Sections 210.900 to 210.936 shall be known and may be cited as the "Family Care Safety Act".

2. As used in sections 210.900 to 210.936, the following terms shall mean:

- (1) "Child-care provider", any licensed or license-exempt child-care home, any licensed or license-exempt child-care center, child-placing agency, residential care facility for children, group home, foster family group home, foster family home, employment agency that refers a child-care worker to parents or guardians as defined in section 289.005. The term "child-care provider" does not include summer camps or voluntary associations designed primarily for recreational or educational purposes;
  - (2) "Child-care worker", any person who is employed by a child-care provider, or receives state or federal funds, either by direct payment, reimbursement or voucher payment, as remuneration for child-care services;
  - (3) "Department", the department of health and senior services;
  - (4) "Elder-care provider", any operator licensed pursuant to chapter 198 or any person, corporation, or association who provides in-home services under contract with the division of aging, or any employer of nurses or nursing assistants of home health agencies licensed pursuant to sections 197.400 to 197.477, or any nursing assistants employed by a hospice pursuant to sections 197.250 to 197.280, or that portion of a hospital for which subdivision (3) of subsection 1 of section 198.012 applies;
  - (5) "Elder-care worker", any person who is employed by an elder-care provider, or who receives state or federal funds, either by direct payment, reimbursement or voucher payment, as remuneration for elder-care services;
  - (6) "Employer", any child-care provider, elder-care provider, or personal-care provider as defined in this section;
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- (7) "Mental health provider", any [mental retardation] **developmental disability** facility or group home as defined in section 633.005;
- (8) "Mental health worker", any person employed by a mental health provider to provide personal care services and supports;
- (9) "Patrol", the Missouri state highway patrol;
- (10) "Personal-care attendant" or "personal-care worker", a person who performs routine services or supports necessary for a person with a physical or mental disability to enter and maintain employment or to live independently;
- (11) "Personal-care provider", any person, corporation, or association who provides personal-care services or supports under contract with the department of mental health, the division of aging, the department of health and senior services or the department of elementary and secondary education;
- (12) "Related child care", child care provided only to a child or children by such child's or children's grandparents, great-grandparents, aunts or uncles, or siblings living in a residence separate from the child or children;
- (13) "Related elder care", care provided only to an elder by an adult child, a spouse, a grandchild, a great-grandchild or a sibling of such elder.

**211.031. JUVENILE COURT TO HAVE EXCLUSIVE JURISDICTION, WHEN — EXCEPTIONS — HOME SCHOOLING, ATTENDANCE VIOLATIONS, HOW TREATED.** — 1. Except as otherwise provided in this chapter, the juvenile court or the family court in circuits that have a family court as provided in sections 487.010 to 487.190 shall have exclusive original jurisdiction in proceedings:

- (1) Involving any child or person seventeen years of age who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:
  - (a) The parents, or other persons legally responsible for the care and support of the child or person seventeen years of age, neglect or refuse to provide proper support, education which is required by law, medical, surgical or other care necessary for his or her well-being; except that reliance by a parent, guardian or custodian upon remedial treatment other than medical or surgical treatment for a child or person seventeen years of age shall not be construed as neglect when the treatment is recognized or permitted pursuant to the laws of this state;
  - (b) The child or person seventeen years of age is otherwise without proper care, custody or support; or
  - (c) The child or person seventeen years of age was living in a room, building or other structure at the time such dwelling was found by a court of competent jurisdiction to be a public nuisance pursuant to section 195.130;
  - (d) The child or person seventeen years of age is a child in need of mental health services and the parent, guardian or custodian is unable to afford or access appropriate mental health treatment or care for the child;
- (2) Involving any child who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:
  - (a) The child while subject to compulsory school attendance is repeatedly and without justification absent from school; or
  - (b) The child disobeys the reasonable and lawful directions of his or her parents or other custodian and is beyond their control; or
  - (c) The child is habitually absent from his or her home without sufficient cause, permission, or justification; or
  - (d) The behavior or associations of the child are otherwise injurious to his or her welfare or to the welfare of others; or
  - (e) The child is charged with an offense not classified as criminal, or with an offense applicable only to children; except that, the juvenile court shall not have jurisdiction over any child

fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(3) Involving any child who is alleged to have violated a state law or municipal ordinance, or any person who is alleged to have violated a state law or municipal ordinance prior to attaining the age of seventeen years, in which cases jurisdiction may be taken by the court of the circuit in which the child or person resides or may be found or in which the violation is alleged to have occurred; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, and except that the juvenile court shall have concurrent jurisdiction with the municipal court over any child who is alleged to have violated a municipal curfew ordinance, and except that the juvenile court shall have concurrent jurisdiction with the circuit court on any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(4) For the adoption of a person;

(5) For the commitment of a child or person seventeen years of age to the guardianship of the department of social services as provided by law.

2. Transfer of a matter, proceeding, jurisdiction or supervision for a child or person seventeen years of age who resides in a county of this state shall be made as follows:

(1) Prior to the filing of a petition and upon request of any party or at the discretion of the juvenile officer, the matter in the interest of a child or person seventeen years of age may be transferred by the juvenile officer, with the prior consent of the juvenile officer of the receiving court, to the county of the child's residence or the residence of the person seventeen years of age for future action;

(2) Upon the motion of any party or on its own motion prior to final disposition on the pending matter, the court in which a proceeding is commenced may transfer the proceeding of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age, or the county in which the offense pursuant to subdivision (3) of subsection 1 of this section is alleged to have occurred for further action;

(3) Upon motion of any party or on its own motion, the court in which jurisdiction has been taken pursuant to subsection 1 of this section may at any time thereafter transfer jurisdiction of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age for further action with the prior consent of the receiving court;

(4) Upon motion of any party or upon its own motion at any time following a judgment of disposition or treatment pursuant to section 211.181, the court having jurisdiction of the cause may place the child or person seventeen years of age under the supervision of another juvenile court within or without the state pursuant to section 210.570 with the consent of the receiving court;

(5) Upon motion of any child or person seventeen years of age or his or her parent, the court having jurisdiction shall grant one change of judge pursuant to Missouri Supreme Court Rules;

(6) Upon the transfer of any matter, proceeding, jurisdiction or supervision of a child or person seventeen years of age, certified copies of all legal and social documents and records pertaining to the case on file with the clerk of the transferring juvenile court shall accompany the transfer.

3. In any proceeding involving any child or person seventeen years of age taken into custody in a county other than the county of the child's residence or the residence of a person seventeen years of age, the juvenile court of the county of the child's residence or the residence of a person seventeen years of age shall be notified of such taking into custody within seventy-two hours.

4. When an investigation by a juvenile officer pursuant to this section reveals that the only basis for action involves an alleged violation of section 167.031 involving a child who alleges to

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be home schooled, the juvenile officer shall contact a parent or parents of such child to verify that the child is being home schooled and not in violation of section 167.031 before making a report of such a violation. Any report of a violation of section 167.031 made by a juvenile officer regarding a child who is being home schooled shall be made to the prosecuting attorney of the county where the child legally resides.

**5. The disability or disease of a parent shall not constitute a basis for a determination that a child is a child in need of care or for the removal of custody of a child from the parent without a specific showing that there is a causal relation between the disability or disease and harm to the child.**

**211.202. MENTALLY DISORDERED CHILDREN, EVALUATION — DISPOSITION — REVIEW BY COURT.** — 1. If a child under the jurisdiction of the juvenile court appears to be mentally disordered, other than [mentally retarded or] **intellectually disabled or** developmentally disabled, the court, on its own motion or on the motion or petition of any interested party, may order the department of mental health to evaluate the child.

2. A mental health facility designated by the department of mental health shall perform within twenty days an evaluation of the child, on an outpatient basis if practicable, for the purpose of determining whether inpatient admission is appropriate because the following criteria are met:

- (1) The child has a mental disorder other than mental retardation or developmental disability, as all these terms are defined in chapter 630;
- (2) The child requires inpatient care and treatment for the protection of himself or others;
- (3) A mental health facility offers a program suitable for the child's needs;
- (4) A mental health facility is the least restrictive environment as the term "least restrictive environment" is defined in chapter 630.

3. If the facility determines, as a result of the evaluation, that it is appropriate to admit the child as an inpatient, the head of the mental health facility, or his designee, shall recommend the child for admission, subject to the availability of suitable accommodations, and send the juvenile court notice of the recommendation and a copy of the evaluation. Should the department evaluation recommend inpatient care, the child, his parent, guardian or counsel shall have the right to request an independent evaluation of the child. Within twenty days of the receipt of the notice and evaluation by the facility, or within twenty days of the receipt of the notice and evaluation from the independent examiner, the court may order, pursuant to a hearing, the child committed to the custody of the department of mental health for inpatient care and treatment, or may otherwise dispose of the matter; except, that no child shall be committed to a mental health facility under this section for other than care and treatment.

4. If the facility determines, as a result of the evaluation, that inpatient admission is not appropriate, the head of the mental health facility, or his designee, shall not recommend the child for admission as an inpatient. The head of the facility, or his designee, shall send to the court a notice that inpatient admission is not appropriate, along with a copy of the evaluation, within twenty days of completing the evaluation. If the child was evaluated on an inpatient basis, the juvenile court shall transfer the child from the department of mental health within twenty days of receipt of the notice and evaluation or set the matter for hearing within twenty days, giving notice of the hearing to the director of the facility as well as all others required by law.

5. If at any time the facility determines that it is no longer appropriate to provide inpatient care and treatment for the child committed by the juvenile court, but that such child appears to qualify for placement under section 630.610, the head of the facility shall refer such child for placement. Subject to the availability of an appropriate placement, the department of mental health shall place any child who qualifies for placement under section 630.610. If no appropriate placement is available, the department of mental health shall discharge the child or make such other arrangements as it may deem appropriate and consistent with the child's welfare and safety.

Notice of the placement or discharge shall be sent to the juvenile court which first ordered the child's detention.

6. The committing juvenile court shall conduct an annual review of the child's need for continued placement in the mental health facility.

**211.203. DEVELOPMENTALLY DISABLED CHILDREN, EVALUATION — DISPOSITION — REVIEW BY COURT.** — 1. If a child under the jurisdiction of the juvenile court appears to be mentally retarded or developmentally disabled, as these terms are defined in chapter 630, the court, on its own motion or on the motion or petition of any interested party, may order the department of mental health to evaluate the child.

2. A regional center designated by the department of mental health shall perform within twenty days a comprehensive evaluation, as defined in chapter 633, on an outpatient basis if practicable, for the purpose of determining the appropriateness of a referral to a [mental retardation] **developmental disability** facility operated or funded by the department of mental health. If it is determined by the regional center, as a result of the evaluation, to be appropriate to refer such child to a department [mental retardation] **developmental disability** facility under section 633.120 or a private [mental retardation] **developmental disability** facility under section 630.610, the regional center shall refer the evaluation to the appropriate [mental retardation] **developmental disability** facility.

3. If, as a result of reviewing the evaluation, the head of the [mental retardation] **developmental disability** facility, or his designee, determines that it is appropriate to admit such child as a resident, the head of the [mental retardation] **developmental disability** facility, or his or her designee, shall recommend the child for admission, subject to availability of suitable accommodations. The head of the regional center, or his designee, shall send the juvenile court notice of the recommendation for admission by the [mental retardation] **developmental disability** facility and a copy of the evaluation. Should the department evaluation recommend residential care and habilitation, the child, his parent, guardian or counsel shall have the right to request an independent evaluation of the child. Within twenty days of receipt of the notice and evaluation from the facility, or within twenty days of the receipt of the notice and evaluation from the independent examiner, the court may order, pursuant to a hearing, the child committed to the custody of the department of mental health for residential care and habilitation, or may otherwise dispose of the matter; except, that no child shall be committed to the department of mental health for other than residential care and habilitation. If the department proposes placement at, or transferring the child to, a department facility other than that designated in the order of the juvenile court, the department shall conduct a due process hearing within six days of such placement or transfer during which the head of the initiating facility shall have the burden to show that the placement or transfer is appropriate for the medical needs of the child. The head of the facility shall notify the court ordering detention or commitment and the child's last known attorney of record of such placement or transfer.

4. If, as a result of the evaluation, the regional center determines that it is not appropriate to admit such child as a resident in a [mental retardation] **developmental disability** facility, the regional center shall send a notice to the court that it is inappropriate to admit such child, along with a copy of the evaluation. If the child was evaluated on a residential basis, the juvenile court shall transfer the child from the department within five days of receiving the notice and evaluation or set the matter for hearing within twenty days, giving notice of the hearing to the director of the facility as well as all others required by law.

5. If at any time the [mental retardation] **developmental disability** facility determines that it is no longer appropriate to provide residential habilitation for the child committed by the juvenile court, but that such child appears to qualify for placement under section 630.610, the head of the facility shall refer such child for placement. Subject to the availability of an appropriate placement,

the department shall place any child who qualifies for placement under section 630.610. If no appropriate placement is available, the department shall discharge the child or make such other arrangements as it may deem appropriate and consistent with the child's welfare and safety. Notice of the placement or discharge shall be sent to the juvenile court which first ordered the child's detention.

6. The committing court shall conduct an annual review of the child's need for continued placement at the [mental retardation] **developmental disability** facility.

**211.206. DUTIES OF DEPARTMENT OF MENTAL HEALTH — DISCHARGE BY DEPARTMENT — NOTICE — JURISDICTION OF COURT.** — 1. For each child committed to the department of mental health by the juvenile court, the director of the department of mental health, or his designee, shall prepare an individualized treatment or habilitation plan, as defined in chapter 630, within thirty days of the admission for treatment or habilitation. The status of each child shall be reviewed at least once every thirty days. Copies of all individualized treatment plans, habilitation plans, and periodic reviews shall be sent to the committing juvenile court.

2. The department of mental health shall discharge a child committed to it by the juvenile court pursuant to sections 211.202 and 211.203 if the head of a mental health facility or [mental retardation] **developmental disability** facility, or his designee, determines, in an evaluation or a periodic review, that any of the following conditions are true:

(1) A child committed to a mental health facility no longer has a mental disorder other than [mental retardation] **intellectual disability** or developmental disability;

(2) A child committed to a [mental retardation] **developmental disability** facility is not [mentally retarded] **intellectually disabled** or developmentally disabled;

(3) The condition of the child is no longer such that, for the protection of the child or others, the child requires inpatient hospitalization or residential habilitation;

(4) The mental health facility or [mental retardation] **developmental disability** facility does not offer a program which best meets the child's needs;

(5) The mental health facility or [mental retardation] **developmental disability** facility does not provide the least restrictive environment, as defined in section 630.005, which is consistent with the child's welfare and safety.

3. If the committing court specifically retained jurisdiction of the child by the terms of its order committing the child to the department of mental health, notice of the discharge, accompanied by a diagnosis and recommendations for placement of the child, shall be forwarded to the court at least twenty days before such discharge date. Unless within twenty days of receipt of notice of discharge the juvenile court orders the child to be brought before it for appropriate proceedings, jurisdiction of that court over the child shall terminate at the end of such twenty days.

**211.207. YOUTHSERVICESDIVISIONMAYREQUEST EVALUATION — PROCEDURE AFTER EVALUATION — TRANSFER OF CUSTODY.** — 1. If a child is committed to the division of youth services and subsequently appears to be mentally disordered, as defined in chapter 630, the division shall refer the child to the department of mental health for evaluation. The evaluation shall be performed within twenty days by a mental health facility or regional center operated by the department of mental health and, if practicable, on an outpatient basis, for the purpose of determining whether inpatient care at a mental health facility or residential habilitation in a [mental retardation] **developmental disability** facility is appropriate because the child meets the criteria specified in subsection 2 of section 211.202 or in section 633.120, respectively.

2. If, as a result of the evaluation, the director of the department of mental health, or his designee, determines that the child is not mentally disordered so as to require inpatient care and treatment in a mental health facility or residential habilitation in a [mental retardation] **developmental disability** facility, the director, or his designee, shall so notify the director of the

division of youth services. If the child was evaluated on an inpatient or residential basis, the child shall be returned to the division of youth services.

3. If the director of the department of mental health, or his designee, determines that the child requires inpatient care and treatment at a mental health facility operated by the department of mental health or residential habilitation in a [mental retardation] **developmental disability** facility operated by the department of mental health, the director, or his designee, shall notify the director of the division of youth services that admission is appropriate. The director of the division may transfer the physical custody of the child to the department of mental health for admission to a department of mental health facility and the department of mental health shall accept the transfer subject to the availability of suitable accommodations.

4. The director of the department of mental health, or his designee, shall cause an individualized treatment or habilitation plan to be prepared by the mental health facility or [mental retardation] **developmental disability** facility for each child. The mental health facility or [mental retardation] **developmental disability** facility shall review the status of the child at least once every thirty days. If, as a result of any such review, it is determined that inpatient care and treatment at a mental health facility or residential habilitation in a [mental retardation] **developmental disability** facility is no longer appropriate for the child because the child does not meet the criteria specified in subsection 2 of section 211.202 or in section 633.120, respectively, the director of the department of mental health, or his designee, shall so notify the director of the division of youth services and shall return the child to the custody of the division.

5. If a child for any reason ceases to come under the jurisdiction of the division of youth services, he may be retained in a mental health facility or [mental retardation] **developmental disability** facility only as otherwise provided by law.

**211.447. PETITION TO TERMINATE PARENTAL RIGHTS FILED, WHEN — JUVENILE COURT MAY TERMINATE PARENTAL RIGHTS, WHEN — INVESTIGATION TO BE MADE — GROUNDS FOR TERMINATION.** — 1. Any information that could justify the filing of a petition to terminate parental rights may be referred to the juvenile officer by any person. The juvenile officer shall make a preliminary inquiry and if it does not appear to the juvenile officer that a petition should be filed, such officer shall so notify the informant in writing within thirty days of the referral. Such notification shall include the reasons that the petition will not be filed. Thereupon, the informant may bring the matter directly to the attention of the judge of the juvenile court by presenting the information in writing, and if it appears to the judge that the information could justify the filing of a petition, the judge may order the juvenile officer to take further action, including making a further preliminary inquiry or filing a petition.

2. Except as provided for in subsection 4 of this section, a petition to terminate the parental rights of the child's parent or parents shall be filed by the juvenile officer or the division, or if such a petition has been filed by another party, the juvenile officer or the division shall seek to be joined as a party to the petition, when:

(1) Information available to the juvenile officer or the division establishes that the child has been in foster care for at least fifteen of the most recent twenty-two months; or

(2) A court of competent jurisdiction has determined the child to be an abandoned infant. For purposes of this subdivision, an "infant" means any child one year of age or under at the time of filing of the petition. The court may find that an infant has been abandoned if:

(a) The parent has left the child under circumstances that the identity of the child was unknown and could not be ascertained, despite diligent searching, and the parent has not come forward to claim the child; or

(b) The parent has, without good cause, left the child without any provision for parental support and without making arrangements to visit or communicate with the child, although able to do so; or

- (3) A court of competent jurisdiction has determined that the parent has:
- (a) Committed murder of another child of the parent; or
  - (b) Committed voluntary manslaughter of another child of the parent; or
  - (c) Aided or abetted, attempted, conspired or solicited to commit such a murder or voluntary manslaughter; or
  - (d) Committed a felony assault that resulted in serious bodily injury to the child or to another child of the parent.

3. A termination of parental rights petition shall be filed by the juvenile officer or the division, or if such a petition has been filed by another party, the juvenile officer or the division shall seek to be joined as a party to the petition, within sixty days of the judicial determinations required in subsection 2 of this section, except as provided in subsection 4 of this section. Failure to comply with this requirement shall not deprive the court of jurisdiction to adjudicate a petition for termination of parental rights which is filed outside of sixty days.

4. If grounds exist for termination of parental rights pursuant to subsection 2 of this section, the juvenile officer or the division may, but is not required to, file a petition to terminate the parental rights of the child's parent or parents if:

- (1) The child is being cared for by a relative; or
- (2) There exists a compelling reason for determining that filing such a petition would not be in the best interest of the child, as documented in the permanency plan which shall be made available for court review; or
- (3) The family of the child has not been provided such services as provided for in section 211.183.

5. The juvenile officer or the division may file a petition to terminate the parental rights of the child's parent when it appears that one or more of the following grounds for termination exist:

(1) The child has been abandoned. For purposes of this subdivision a "child" means any child over one year of age at the time of filing of the petition. The court shall find that the child has been abandoned if, for a period of six months or longer:

(a) The parent has left the child under such circumstances that the identity of the child was unknown and could not be ascertained, despite diligent searching, and the parent has not come forward to claim the child; or

(b) The parent has, without good cause, left the child without any provision for parental support and without making arrangements to visit or communicate with the child, although able to do so;

(2) The child has been abused or neglected. In determining whether to terminate parental rights pursuant to this subdivision, the court shall consider and make findings on the following conditions or acts of the parent:

(a) A mental condition which is shown by competent evidence either to be permanent or such that there is no reasonable likelihood that the condition can be reversed and which renders the parent unable to knowingly provide the child the necessary care, custody and control;

(b) Chemical dependency which prevents the parent from consistently providing the necessary care, custody and control of the child and which cannot be treated so as to enable the parent to consistently provide such care, custody and control;

(c) A severe act or recurrent acts of physical, emotional or sexual abuse toward the child or any child in the family by the parent, including an act of incest, or by another under circumstances that indicate that the parent knew or should have known that such acts were being committed toward the child or any child in the family; or

(d) Repeated or continuous failure by the parent, although physically or financially able, to provide the child with adequate food, clothing, shelter, or education as defined by law, or other care and control necessary for the child's physical, mental, or emotional health and development.

**Nothing in this subdivision shall be construed to permit discrimination on the basis of disability or disease;**

(3) The child has been under the jurisdiction of the juvenile court for a period of one year, and the court finds that the conditions which led to the assumption of jurisdiction still persist, or conditions of a potentially harmful nature continue to exist, that there is little likelihood that those conditions will be remedied at an early date so that the child can be returned to the parent in the near future, or the continuation of the parent-child relationship greatly diminishes the child's prospects for early integration into a stable and permanent home. In determining whether to terminate parental rights under this subdivision, the court shall consider and make findings on the following:

(a) The terms of a social service plan entered into by the parent and the division and the extent to which the parties have made progress in complying with those terms;

(b) The success or failure of the efforts of the juvenile officer, the division or other agency to aid the parent on a continuing basis in adjusting his circumstances or conduct to provide a proper home for the child;

(c) A mental condition which is shown by competent evidence either to be permanent or such that there is no reasonable likelihood that the condition can be reversed and which renders the parent unable to knowingly provide the child the necessary care, custody and control;

(d) Chemical dependency which prevents the parent from consistently providing the necessary care, custody and control over the child and which cannot be treated so as to enable the parent to consistently provide such care, custody and control; or

(4) The parent has been found guilty or pled guilty to a felony violation of chapter 566 when the child or any child in the family was a victim, or a violation of section 568.020 when the child or any child in the family was a victim. As used in this subdivision, a "child" means any person who was under eighteen years of age at the time of the crime and who resided with such parent or was related within the third degree of consanguinity or affinity to such parent; or

(5) The child was conceived and born as a result of an act of forcible rape. When the biological father has pled guilty to, or is convicted of, the forcible rape of the birth mother, such a plea or conviction shall be conclusive evidence supporting the termination of the biological father's parental rights; or

(6) The parent is unfit to be a party to the parent and child relationship because of a consistent pattern of committing a specific abuse, including but not limited to, abuses as defined in section 455.010, child abuse or drug abuse before the child or of specific conditions directly relating to the parent and child relationship either of which are determined by the court to be of a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental or emotional needs of the child. It is presumed that a parent is unfit to be a party to the parent-child relationship upon a showing that within a three-year period immediately prior to the termination adjudication, the parent's parental rights to one or more other children were involuntarily terminated pursuant to subsection 2 or 4 of this section or subdivisions (1), (2), (3) or (4) of subsection 5 of this section or similar laws of other states.

6. The juvenile court may terminate the rights of a parent to a child upon a petition filed by the juvenile officer or the division, or in adoption cases, by a prospective parent, if the court finds that the termination is in the best interest of the child and when it appears by clear, cogent and convincing evidence that grounds exist for termination pursuant to subsection 2, 4 or 5 of this section.

7. When considering whether to terminate the parent-child relationship pursuant to subsection 2 or 4 of this section or subdivision (1), (2), (3) or (4) of subsection 5 of this section, the court shall evaluate and make findings on the following factors, when appropriate and applicable to the case:

(1) The emotional ties to the birth parent;

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(2) The extent to which the parent has maintained regular visitation or other contact with the child;

(3) The extent of payment by the parent for the cost of care and maintenance of the child when financially able to do so including the time that the child is in the custody of the division or other child-placing agency;

(4) Whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent within an ascertainable period of time;

(5) The parent's disinterest in or lack of commitment to the child;

(6) The conviction of the parent of a felony offense that the court finds is of such a nature that the child will be deprived of a stable home for a period of years; provided, however, that incarceration in and of itself shall not be grounds for termination of parental rights;

(7) Deliberate acts of the parent or acts of another of which the parent knew or should have known that subjects the child to a substantial risk of physical or mental harm.

8. The court may attach little or no weight to infrequent visitations, communications, or contributions. It is irrelevant in a termination proceeding that the maintenance of the parent-child relationship may serve as an inducement for the parent's rehabilitation.

9. In actions for adoption pursuant to chapter 453, the court may hear and determine the issues raised in a petition for adoption containing a prayer for termination of parental rights filed with the same effect as a petition permitted pursuant to subsection 2, 4, or 5 of this section.

**10. The disability or disease of a parent shall not constitute a basis for a determination that a child is a child in need of care, for the removal of custody of a child from the parent, or for the termination of parent rights without a specific showing that there is a causal relation between the disability or disease and harm to the child.**

**301.143. PARKING SPACE FOR PHYSICALLY DISABLED MAY BE ESTABLISHED BY POLITICAL SUBDIVISIONS AND OTHERS, SIGNS — VIOLATIONS — ENFORCEMENT — PENALTY — HANDICAP AND HANDICAPPED PROHIBITED ON SIGNAGE, WHEN. —** 1. As used in this section, the term "vehicle" shall have the same meaning given it in section 301.010, and the term "physically disabled" shall have the same meaning given it in section 301.142.

2. Political subdivisions of the state may by ordinance or resolution designate parking spaces for the exclusive use of vehicles which display a distinguishing license plate or card issued pursuant to section 301.071 or 301.142. Owners of private property used for public parking shall also designate parking spaces for the exclusive use of vehicles which display a distinguishing license plate or card issued pursuant to section 301.071 or 301.142. Whenever a political subdivision or owner of private property so designates a parking space, the space shall be indicated by a sign upon which shall be inscribed the international symbol of accessibility and [shall] **may** also include any appropriate wording **such as "Accessible Parking"** to indicate that the space is reserved for the exclusive use of vehicles which display a distinguishing license plate or card. The sign described in this subsection shall also state, or an additional sign shall be posted below or adjacent to the sign stating, the following: "\$50 to \$300 fine." **Beginning August 28, 2011, when any political subdivision or owner of private property restripes a parking lot or constructs a new parking lot, one in every four accessible spaces, but not less than one, shall be served by an access aisle a minimum of ninety-six inches wide and shall be designated "lift van accessible only" with signs that meet the requirements of the federal Americans with Disabilities Act, as amended, and any rules or regulations established pursuant thereto.**

3. Any political subdivision, by ordinance or resolution, and any person or corporation in lawful possession of a public off-street parking facility or any other owner of private property may designate reserved parking spaces for the exclusive use of vehicles which display a distinguishing license plate or card issued pursuant to section 301.071 or 301.142 as close as possible to the nearest accessible entrance. Such designation shall be made by posting immediately adjacent to, and visible from, each space, a sign upon which is inscribed the international symbol of

accessibility, and may also include any appropriate wording to indicate that the space is reserved for the exclusive use of vehicles which display a distinguishing license plate or card.

4. The local police or sheriff's department may cause the removal of any vehicle not displaying a distinguishing license plate or card on which is inscribed the international symbol of accessibility and the word "disabled" issued pursuant to section 301.142 or a "disabled veteran" license plate issued pursuant to section 301.071 or a distinguishing license plate or card issued by any other state from a space designated for physically disabled persons if there is posted immediately adjacent to, and readily visible from, such space a sign on which is inscribed the international symbol of accessibility and may include any appropriate wording to indicate that the space is reserved for the exclusive use of vehicles which display a distinguishing license plate or card. Any person who parks in a space reserved for physically disabled persons and is not displaying distinguishing license plates or a card is guilty of an infraction and upon conviction thereof shall be punished by a fine of not less than fifty dollars nor more than three hundred dollars. Any vehicle which has been removed and which is not properly claimed within thirty days thereafter shall be considered to be an abandoned vehicle.

5. Spaces designated for use by vehicles displaying the distinguishing "disabled" license plate issued pursuant to section 301.142 or 301.071 shall meet the requirements of the federal Americans with Disabilities Act, as amended, and any rules or regulations established pursuant thereto. Notwithstanding the other provisions of this section, on-street parking spaces designated by political subdivisions in residential areas for the exclusive use of vehicles displaying a distinguishing license plate or card issued pursuant to section 301.071 or 301.142 shall meet the requirements of the federal Americans with Disabilities Act pursuant to this subsection and any such space shall have clearly and visibly painted upon it the international symbol of accessibility and any curb adjacent to the space shall be clearly and visibly painted blue.

6. Any person who, without authorization, uses a distinguishing license plate or card issued pursuant to section 301.071 or 301.142 to park in a parking space reserved under authority of this section shall be guilty of a class B misdemeanor.

7. Law enforcement officials may enter upon private property open to public use to enforce the provisions of this section and section 301.142, including private property designated by the owner of such property for the exclusive use of vehicles which display a distinguishing license plate or card issued pursuant to section 301.071 or 301.142.

8. Nonconforming signs or spaces otherwise required pursuant to this section which are in use prior to August 28, [1997] **2011**, shall not be in violation of this section during the useful life of such signs or spaces. Under no circumstances shall the useful life of the nonconforming signs or spaces be extended by means other than those means used to maintain any sign or space on the owner's property which is not used for vehicles displaying a disabled license plate.

**9. Beginning August 28, 2011, all new signs erected under this section shall not contain the words "Handicap Parking" or "Handicapped Parking".**

**332.021. DENTAL BOARD, MEMBERS, QUALIFICATIONS, APPOINTMENT, TERMS, VACANCY, HOW FILLED — BOARD MAY SUE AND BE SUED.** — 1. "The Missouri Dental Board" shall consist of seven members including five registered and currently licensed dentists, one registered and currently licensed dental hygienist with voting authority as limited in subsection 4 of this section, and one voting public member. Any currently valid certificate of registration or currently valid specialist's certificate issued by the Missouri dental board as constituted pursuant to prior law shall be a valid certificate of registration or a valid specialist's certificate, as the case may be, upon October 13, 1969, and such certificates shall be valid so long as the holders thereof comply with the provisions of this chapter.

2. Any person other than the public member appointed to the board as hereinafter provided shall be a dentist or a dental hygienist who is registered and currently licensed in Missouri, is a United States citizen, has been a resident of this state for one year immediately preceding his or her



appointment, has practiced dentistry or dental hygiene for at least five consecutive years immediately preceding his or her appointment, shall have graduated from an accredited dental school or dental hygiene school, and at the time of his or her appointment or during his or her tenure on the board has or shall have no connection with or interest in, directly or indirectly, any dental college, dental hygiene school, university, school, department, or other institution of learning wherein dentistry or dental hygiene is taught, or with any dental laboratory or other business enterprise directly related to the practice of dentistry or dental hygiene.

3. The governor shall appoint members to the board by and with the advice and consent of the senate when a vacancy thereon occurs either by the expiration of a term or otherwise; provided, however, that any board member shall serve until his or her successor is appointed and has qualified. Each appointee, except where appointed to fill an unexpired term, shall be appointed for a term of five years. The president of the Missouri Dental Association in office at the time shall, at least ninety days prior to the expiration of the term of a board member other than the dental hygienist or public member, or as soon as feasible after a vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five dentists qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Dental Association shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association.

4. The public member shall be at the time of his or her appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. **The list of dentists submitted to the governor shall include the names submitted to the director of the division of professional registration by the president of the Missouri Dental Association. This list shall be a public record available for inspection and copying under chapter 610.** Lists of dental hygienists submitted to the governor may include names submitted to the director of the division of professional registration by the president of the Missouri Dental Hygienists' Association. The duties of the dental hygienist member shall not include participation in the determination for or the issuance of a certificate of registration or a license to practice as a dentist. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

5. The board shall have a seal which shall be in circular form and which shall impress the word "SEAL" in the center and around said word the words "Missouri Dental Board". The seal shall be affixed to such instruments as hereinafter provided and to any other instruments as the board shall direct.

6. The board may sue and be sued as the Missouri dental board, and its members need not be named as parties. Members of the board shall not be personally liable, either jointly or severally, for any act or acts committed in the performance of their official duties as board members; nor shall any board member be personally liable for any court costs which accrue in any action by or against the board.

**334.120. BOARD CREATED — MEMBERS, APPOINTMENT, QUALIFICATIONS, TERMS, COMPENSATION.** — 1. There is hereby created and established a board to be known as "The State Board of Registration for the Healing Arts" for the purpose of registering, licensing and supervising all physicians and surgeons, and midwives in this state. The board shall consist of nine

members, including one voting public member, to be appointed by the governor by and with the advice and consent of the senate, at least five of whom shall be graduates of professional schools accredited by the Liaison Committee on Medical Education or recognized by the Educational Commission for Foreign Medical Graduates, and at least two of whom shall be graduates of professional schools approved and accredited as reputable by the American Osteopathic Association, and all of whom, except the public member, shall be duly licensed and registered as physicians and surgeons pursuant to the laws of this state. Each member must be a citizen of the United States and must have been a resident of this state for a period of at least one year next preceding his or her appointment and shall have been actively engaged in the lawful and ethical practice of the profession of physician and surgeon for at least five years next preceding his or her appointment. Not more than four members shall be affiliated with the same political party. All members shall be appointed for a term of four years. Each member of the board shall receive as compensation an amount set by the board not to exceed fifty dollars for each day devoted to the affairs of the board, and shall be entitled to reimbursement of his or her expenses necessarily incurred in the discharge of his or her official duties. The president of the Missouri State Medical Association, for all medical physician appointments, or the president of the Missouri Association of Osteopathic Physicians and Surgeons, for all osteopathic physician appointments, in office at the time shall, at least ninety days prior to the expiration of the term of the respective board member, other than the public member, or as soon as feasible after the appropriate vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five physicians and surgeons qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri State Medical Association or the Missouri Association of Osteopathic Physicians and Surgeons, as appropriate, shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association.

2. The public member shall be at the time of his or her appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. **The list of medical physicians or osteopathic physicians submitted to the governor shall include the names submitted to the director of the division of professional registration by the president of the Missouri State Medical Association or the Missouri Association of Osteopathic Physicians and Surgeons, respectively. This list shall be a public record available for inspection and copying under chapter 610.** The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

**453.070. INVESTIGATIONS PRECONDITION FOR ADOPTION — CONTENTS OF INVESTIGATION REPORT — HOW CONDUCTED — ASSESSMENTS OF ADOPTIVE PARENTS, CONTENTS — WAIVING OF INVESTIGATION, WHEN — FEES — PREFERENCE TO FOSTER PARENTS, WHEN. — 1.** Except as provided in subsection 5 of this section, no decree for the adoption of a child under eighteen years of age shall be entered for the petitioner or petitioners in such adoption as ordered by the juvenile court having jurisdiction, until a full investigation, which includes an assessment of the adoptive parents, an appropriate postplacement assessment and a summary of written reports as provided for in section 453.026, and any other pertinent information relevant to whether the child is suitable for adoption by the petitioner and whether the

petitioner is suitable as a parent for the child, has been made. The report shall also include a statement to the effect that the child has been considered as a potential subsidy recipient.

2. Such investigation shall be made, as directed by the court having jurisdiction, either by the division of family services of the state department of social services, a juvenile court officer, a licensed child-placement agency, a social worker licensed pursuant to chapter 337, or other suitable person appointed by the court. The results of such investigation shall be embodied in a written report that shall be submitted to the court within ninety days of the request for the investigation.

3. The department of social services, division of family services, shall develop rules and regulations regarding the content of the assessment of the petitioner or petitioners. The content of the assessment shall include but not be limited to, a report on the condition of the petitioner's home and information on the petitioner's education, financial, marital, medical and psychological status and criminal background check. If an assessment is conducted after August 28, 1997, but prior to the promulgation of rules and regulations by the department concerning the contents of such assessment, any discrepancy between the contents of the actual assessment and the contents of the assessment required by department rule shall not be used as the sole basis for invalidating an adoption. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536.

4. The assessment of petitioner or petitioners shall be submitted to the petitioner and to the court prior to the scheduled hearing of the adoptive petition.

5. In cases where the adoption or custody involves a child under eighteen years of age that is the natural child of one of the petitioners and where all of the parents required by this chapter to give consent to the adoption or transfer of custody have given such consent, the juvenile court may waive the investigation and report, except the criminal background check, and enter the decree for the adoption or order the transfer of custody without such investigation and report.

6. In the case of an investigation and report made by the division of family services by order of the court, the court may order the payment of a reasonable fee by the petitioner to cover the costs of the investigation and report.

7. Any adult person or persons over the age of eighteen, who, as foster parent or parents, have cared for a foster child continuously for a period of nine months or more and bonding has occurred as evidenced by the positive emotional and physical interaction between the foster parent and child, may apply to such authorized agency for the placement of such child with them for the purpose of adoption if the child is eligible for adoption. The agency and court shall give preference and first consideration for adoptive placements to foster parents. However, the final determination of the propriety of the adoption of such foster child shall be within the sole discretion of the court.

**8. (1) Nothing in this section shall be construed to permit discrimination on the basis of disability or disease of a prospective adoptive parent.**

**(2) The disability or disease of a prospective adoptive parent shall not constitute a basis for a determination that the petitioner is unfit or not suitable to be an adoptive parent without a specific showing that there is a causal relationship between the disability or disease and a substantial and significant risk of harm to a child.**

**475.121. ADMISSION TO MENTAL HEALTH OR DEVELOPMENTAL DISABILITY FACILITIES.**

— 1. Pursuant to an application alleging that the admission of the ward to a particular mental health or [mental retardation] **developmental disability** facility is appropriate and in the best interest of the ward, the court may authorize the guardian or limited guardian to admit the ward to such facility. Such application shall be accompanied by a physician's statement setting forth the factual basis for the need for continued admission including a statement of the ward's current diagnosis, plan of care, treatment or habilitation and the probable duration of the admission.

2. If the court finds that the application establishes the need for inpatient care, habilitation or treatment of the ward in a mental health or [mental retardation] **developmental disability** facility without the adduction of further evidence, it shall issue an order authorizing the guardian to admit the ward to such facility in accordance with the provisions of section 632.120 or section 633.120.

3. The court may, in its discretion, appoint an attorney to represent the ward. The attorney shall meet with the ward and may request a hearing on the application. If a hearing is requested, the court shall set the application for hearing. If there is no request for hearing, the court may rule on the application without a hearing. The attorney for the ward shall be allowed a reasonable fee for his services rendered to be assessed as costs under section 475.085.

4. Proceedings under this section may be combined with adjudication proceedings under section 475.075.

**475.355. TEMPORARY EMERGENCY DETENTION.** — 1. If, upon the filing of a petition for the adjudication of incapacity or disability it appears that the respondent, by reason of a mental disorder or [mental retardation] **intellectual disability or developmental disability**, presents a likelihood of serious physical harm to himself or others, he may be detained in accordance with the provisions of chapter 632 if suffering from a mental disorder, or chapter 633 if [mentally retarded] **the person has an intellectual or developmental disability**, pending a hearing on the petition for adjudication.

2. As used in this section, the terms "mental disorder" and "mental retardation" shall be as defined in chapter 630 and the term "likelihood of serious physical harm to himself or others" shall be as defined in chapter 632.

3. The procedure for obtaining an order of temporary emergency detention shall be as prescribed by chapter 632, relating to prehearing detention of mentally disordered persons.

**476.537. JUDGE LEAVING NO SURVIVING SPOUSE OR SURVIVING SPOUSE DIES — DEPENDENTS TO RECEIVE BENEFITS.** — In the event that any judge leaving no surviving spouse or any surviving spouse receiving benefits under section 476.535 as a beneficiary dies leaving dependents who are unable to care for or support themselves because of any [mental retardation] **intellectual disability or developmental disability**, disease or disability, or any physical [handicap or] disability, the benefits that would be received by a surviving spouse on the judge's death if there were a surviving spouse or the benefits received by such surviving spouse, as the case may be, shall be paid to such surviving dependent for the remainder of such dependent's life. If the judge or such surviving spouse leaves more than one dependent who would be eligible for benefits under this section, then each eligible dependent shall receive a pro rata share of the amount that would be paid to a surviving spouse under section 476.535.

**552.015. EVIDENCE OF MENTAL DISEASE OR DEFECT, ADMISSIBLE, WHEN.** — 1. Evidence that the defendant did or did not suffer mental disease or defect shall not be admissible in a criminal prosecution except as provided in this section.

2. Evidence that the defendant did or did not suffer from a mental disease or defect shall be admissible in a criminal proceeding:

(1) To determine whether the defendant lacks capacity to understand the proceedings against him or to assist in his own defense as provided in section 552.020;

(2) To determine whether the defendant is criminally responsible as provided in section 552.030;

(3) To determine whether a person committed to the director of the department of mental health pursuant to this chapter shall be released as provided in section 552.040;

(4) To determine if a person in the custody of any correctional institution needs care in a mental hospital as provided in section 552.050;

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(5) To determine whether a person condemned to death shall be executed as provided in sections 552.060 and 552.070;

(6) To determine whether or not the defendant, if found guilty, should be sentenced to death as provided in chapter 558;

(7) To determine the appropriate disposition of a defendant, if guilty, as provided in sections 557.011 and 557.031;

(8) To prove that the defendant did or did not have a state of mind which is an element of the offense;

(9) To determine if the defendant, if found not guilty by reason of mental disease or defect, should be immediately conditionally released by the court under the provisions of section 552.040 to the community or committed to a mental health or [mental retardation] **developmental disability** facility. This question shall not be asked regarding defendants charged with any of the dangerous felonies as defined in section 556.061, or with those crimes set forth in subsection 11 of section 552.040, or the attempts thereof.

**552.020. LACK OF MENTAL CAPACITY BAR TO TRIAL OR CONVICTION — PSYCHIATRIC EXAMINATION, WHEN, REPORT OF — PLEA OF NOT GUILTY BY REASON OF MENTAL DISEASE, SUPPORTING PRETRIAL EVALUATION, CONDITIONS OF RELEASE — COMMITMENT TO HOSPITAL, WHEN — STATEMENTS OF ACCUSED INADMISSIBLE, WHEN — JURY MAY BE IMPANELED TO DETERMINE MENTAL FITNESS.** — 1. No person who as a result of mental disease or defect lacks capacity to understand the proceedings against him or to assist in his own defense shall be tried, convicted or sentenced for the commission of an offense so long as the incapacity endures.

2. Whenever any judge has reasonable cause to believe that the accused lacks mental fitness to proceed, he shall, upon his own motion or upon motion filed by the state or by or on behalf of the accused, by order of record, appoint one or more private psychiatrists or psychologists, as defined in section 632.005, or physicians with a minimum of one year training or experience in providing treatment or services to [mentally retarded or mentally ill individuals] **persons with an intellectual disability or developmental disability or mental illness**, who are neither employees nor contractors of the department of mental health for purposes of performing the examination in question, to examine the accused; or shall direct the director to have the accused so examined by one or more psychiatrists or psychologists, as defined in section 632.005, or physicians with a minimum of one year training or experience in providing treatment or services to [mentally retarded or mentally ill individuals] **persons with an intellectual disability, developmental disability, or mental illness**. The order shall direct that a written report or reports of such examination be filed with the clerk of the court. No private physician, psychiatrist, or psychologist shall be appointed by the court unless he has consented to act. The examinations ordered shall be made at such time and place and under such conditions as the court deems proper; except that, if the order directs the director of the department to have the accused examined, the director, or his designee, shall determine the time, place and conditions under which the examination shall be conducted. The order may include provisions for the interview of witnesses and may require the provision of police reports to the department for use in evaluations. The department shall establish standards and provide training for those individuals performing examinations pursuant to this section and section 552.030. No individual who is employed by or contracts with the department shall be designated to perform an examination pursuant to this chapter unless the individual meets the qualifications so established by the department. Any examination performed pursuant to this subsection shall be completed and filed with the court within sixty days of the order unless the court for good cause orders otherwise. Nothing in this section or section 552.030 shall be construed to permit psychologists to engage in any activity not authorized by chapter 337. One pretrial evaluation shall be provided at no charge to the defendant

by the department. All costs of subsequent evaluations shall be assessed to the party requesting the evaluation.

3. A report of the examination made under this section shall include:

- (1) Detailed findings;
- (2) An opinion as to whether the accused has a mental disease or defect;
- (3) An opinion based upon a reasonable degree of medical or psychological certainty as to whether the accused, as a result of a mental disease or defect, lacks capacity to understand the proceedings against him or to assist in his own defense;
- (4) A recommendation as to whether the accused should be held in custody in a suitable hospital facility for treatment pending determination, by the court, of mental fitness to proceed; and
- (5) A recommendation as to whether the accused, if found by the court to be mentally fit to proceed, should be detained in such hospital facility pending further proceedings.

4. If the accused has pleaded lack of responsibility due to mental disease or defect or has given the written notice provided in subsection 2 of section 552.030, the court shall order the report of the examination conducted pursuant to this section to include, in addition to the information required in subsection 3 of this section, an opinion as to whether at the time of the alleged criminal conduct the accused, as a result of mental disease or defect, did not know or appreciate the nature, quality, or wrongfulness of his conduct or as a result of mental disease or defect was incapable of conforming his conduct to the requirements of law. A plea of not guilty by reason of mental disease or defect shall not be accepted by the court in the absence of any such pretrial evaluation which supports such a defense. In addition, if the accused has pleaded not guilty by reason of mental disease or defect, and the alleged crime is not a dangerous felony as defined in section 556.061, or those crimes set forth in subsection 11 of section 552.040, or the attempts thereof, the court shall order the report of the examination to include an opinion as to whether or not the accused should be immediately conditionally released by the court pursuant to the provisions of section 552.040 or should be committed to a mental health or [mental retardation] **developmental disability** facility. If such an evaluation is conducted at the direction of the director of the department of mental health, the court shall also order the report of the examination to include an opinion as to the conditions of release which are consistent with the needs of the accused and the interest of public safety, including, but not limited to, the following factors:

- (1) Location and degree of necessary supervision of housing;
- (2) Location of and responsibilities for appropriate psychiatric, rehabilitation and aftercare services, including the frequency of such services;
- (3) Medication follow-up, including necessary testing to monitor medication compliance;
- (4) At least monthly contact with the department's forensic case monitor;
- (5) Any other conditions or supervision as may be warranted by the circumstances of the case.

5. If the report contains the recommendation that the accused should be committed to or held in a suitable hospital facility pending determination of the issue of mental fitness to proceed, and if the accused is not admitted to bail or released on other conditions, the court may order that the accused be committed to or held in a suitable hospital facility pending determination of the issue of mental fitness to proceed.

6. The clerk of the court shall deliver copies of the report to the prosecuting or circuit attorney and to the accused or his counsel. The report shall not be a public record or open to the public. Within ten days after the filing of the report, both the defendant and the state shall, upon written request, be entitled to an order granting them an examination of the accused by a psychiatrist or psychologist, as defined in section 632.005, or a physician with a minimum of one year training or experience in providing treatment or services to [mentally retarded or mentally ill individuals] **persons with an intellectual disability or developmental disability or mental illness**, of their own choosing and at their own expense. An examination performed pursuant to this subsection shall be completed and a report filed with the court within sixty days of the date it

is received by the department or private psychiatrist, psychologist or physician unless the court, for good cause, orders otherwise. A copy shall be furnished the opposing party.

7. If neither the state nor the accused nor his counsel requests a second examination relative to fitness to proceed or contests the findings of the report referred to in subsections 2 and 3 of this section, the court may make a determination and finding on the basis of the report filed or may hold a hearing on its own motion. If any such opinion is contested, the court shall hold a hearing on the issue. The court shall determine the issue of mental fitness to proceed and may impanel a jury of six persons to assist in making the determination. The report or reports may be received in evidence at any hearing on the issue but the party contesting any opinion therein shall have the right to summon and to cross-examine the examiner who rendered such opinion and to offer evidence upon the issue.

8. At a hearing on the issue pursuant to subsection 7 of this section, the accused is presumed to have the mental fitness to proceed. The burden of proving that the accused does not have the mental fitness to proceed is by a preponderance of the evidence and the burden of going forward with the evidence is on the party raising the issue. The burden of going forward shall be on the state if the court raises the issue.

9. If the court determines that the accused lacks mental fitness to proceed, the criminal proceedings shall be suspended and the court shall commit him to the director of the department of mental health.

10. Any person committed pursuant to subsection 9 of this section shall be entitled to the writ of habeas corpus upon proper petition to the court that committed him. The issue of the mental fitness to proceed after commitment under subsection 9 of this section may also be raised by a motion filed by the director of the department of mental health or by the state, alleging the mental fitness of the accused to proceed. A report relating to the issue of the accused's mental fitness to proceed may be attached thereto. If the motion is not contested by the accused or his counsel or if after a hearing on a motion the court finds the accused mentally fit to proceed, or if he is ordered discharged from the director's custody upon a habeas corpus hearing, the criminal proceedings shall be resumed.

11. The following provisions shall apply after a commitment as provided in this section:

(1) Six months after such commitment, the court which ordered the accused committed shall order an examination by the head of the facility in which the accused is committed, or a qualified designee, to ascertain whether the accused is mentally fit to proceed and if not, whether there is a substantial probability that the accused will attain the mental fitness to proceed to trial in the foreseeable future. The order shall direct that written report or reports of the examination be filed with the clerk of the court within thirty days and the clerk shall deliver copies to the prosecuting attorney or circuit attorney and to the accused or his counsel. The report required by this subsection shall conform to the requirements under subsection 3 of this section with the additional requirement that it include an opinion, if the accused lacks mental fitness to proceed, as to whether there is a substantial probability that the accused will attain the mental fitness to proceed in the foreseeable future;

(2) Within ten days after the filing of the report, both the accused and the state shall, upon written request, be entitled to an order granting them an examination of the accused by a psychiatrist or psychologist, as defined in section 632.005, or a physician with a minimum of one year training or experience in providing treatment or services to [mentally retarded or mentally ill individuals] **persons with an intellectual disability or developmental disability or mental illness**, of their own choosing and at their own expense. An examination performed pursuant to this subdivision shall be completed and filed with the court within thirty days unless the court, for good cause, orders otherwise. A copy shall be furnished to the opposing party;

(3) If neither the state nor the accused nor his counsel requests a second examination relative to fitness to proceed or contests the findings of the report referred to in subdivision (1) of this subsection, the court may make a determination and finding on the basis of the report filed, or may

hold a hearing on its own motion. If any such opinion is contested, the court shall hold a hearing on the issue. The report or reports may be received in evidence at any hearing on the issue but the party contesting any opinion therein relative to fitness to proceed shall have the right to summon and to cross-examine the examiner who rendered such opinion and to offer evidence upon the issue;

(4) If the accused is found mentally fit to proceed, the criminal proceedings shall be resumed;

(5) If it is found that the accused lacks mental fitness to proceed but there is a substantial probability the accused will be mentally fit to proceed in the reasonably foreseeable future, the court shall continue such commitment for a period not longer than six months, after which the court shall reinstitute the proceedings required under subdivision (1) of this subsection;

(6) If it is found that the accused lacks mental fitness to proceed and there is no substantial probability that the accused will be mentally fit to proceed in the reasonably foreseeable future, the court shall dismiss the charges without prejudice and the accused shall be discharged, but only if proper proceedings have been filed under chapter 632 or chapter 475, in which case those sections and no others will be applicable. The probate division of the circuit court shall have concurrent jurisdiction over the accused upon the filing of a proper pleading to determine if the accused shall be involuntarily detained under chapter 632, or to determine if the accused shall be declared incapacitated under chapter 475, and approved for admission by the guardian under section 632.120 or 633.120, to a mental health or [retardation] **developmental disability** facility. When such proceedings are filed, the criminal charges shall be dismissed without prejudice if the court finds that the accused is mentally ill and should be committed or that he is incapacitated and should have a guardian appointed. The period of limitation on prosecuting any criminal offense shall be tolled during the period that the accused lacks mental fitness to proceed.

12. If the question of the accused's mental fitness to proceed was raised after a jury was impaneled to try the issues raised by a plea of not guilty and the court determines that the accused lacks the mental fitness to proceed or orders the accused committed for an examination pursuant to this section, the court may declare a mistrial. Declaration of a mistrial under these circumstances, or dismissal of the charges pursuant to subsection 11 of this section, does not constitute jeopardy, nor does it prohibit the trial, sentencing or execution of the accused for the same offense after he has been found restored to competency.

13. The result of any examinations made pursuant to this section shall not be a public record or open to the public.

14. No statement made by the accused in the course of any examination or treatment pursuant to this section and no information received by any examiner or other person in the course thereof, whether such examination or treatment was made with or without the consent of the accused or upon his motion or upon that of others, shall be admitted in evidence against the accused on the issue of guilt in any criminal proceeding then or thereafter pending in any court, state or federal. A finding by the court that the accused is mentally fit to proceed shall in no way prejudice the accused in a defense to the crime charged on the ground that at the time thereof he was afflicted with a mental disease or defect excluding responsibility, nor shall such finding by the court be introduced in evidence on that issue nor otherwise be brought to the notice of the jury.

**552.030. MENTAL DISEASE OR DEFECT, NOT GUILTY PLEA BASED ON, PRETRIAL INVESTIGATION — EVIDENCE — NOTICE OF DEFENSE — EXAMINATION, REPORTS CONFIDENTIAL — STATEMENTS NOT ADMISSIBLE, EXCEPTION — PRESUMPTION OF COMPETENCY — VERDICT CONTENTS — ORDER OF COMMITMENT TO DEPARTMENT. — 1.** A person is not responsible for criminal conduct if, at the time of such conduct, as a result of mental disease or defect such person was incapable of knowing and appreciating the nature, quality, or wrongfulness of such person's conduct.

2. Evidence of mental disease or defect excluding responsibility shall not be admissible at trial of the accused unless the accused, at the time of entering such accused's plea to the charge, pleads not guilty by reason of mental disease or defect excluding responsibility, or unless within



ten days after a plea of not guilty, or at such later date as the court may for good cause permit, the accused files a written notice of such accused's purpose to rely on such defense. Such a plea or notice shall not deprive the accused of other defenses. The state may accept a defense of mental disease or defect excluding responsibility, whether raised by plea or written notice, if the accused has no other defense and files a written notice to that effect. The state shall not accept a defense of mental disease or defect excluding responsibility in the absence of any pretrial evaluation as described in this section or section 552.020. Upon the state's acceptance of the defense of mental disease or defect excluding responsibility, the court shall proceed to order the commitment of the accused as provided in section 552.040 in cases of persons acquitted on the ground of mental disease or defect excluding responsibility, and further proceedings shall be had regarding the confinement and release of the accused as provided in section 552.040.

3. Whenever the accused has pleaded mental disease or defect excluding responsibility or has given the written notice provided in subsection 2 of this section, and such defense has not been accepted as provided in subsection 2 of this section, the court shall, after notice and upon motion of either the state or the accused, by order of record, appoint one or more private psychiatrists or psychologists, as defined in section 632.005, or physicians with a minimum of one year training or experience in providing treatment or services to [mentally retarded or mentally ill individuals] **persons with an intellectual disability or developmental disability or mental illness**, who are neither employees nor contractors of the department of mental health for purposes of performing the examination in question, to examine the accused, or shall direct the director of the department of mental health, or the director's designee, to have the accused so examined by one or more psychiatrists or psychologists, as defined in section 632.005, or physicians with a minimum of one year training or experience in providing treatment or services to [mentally retarded or mentally ill individuals] **persons with an intellectual disability or developmental disability or mental illness** designated by the director, or the director's designee, as qualified to perform examinations pursuant to this chapter. The order shall direct that written report or reports of such examination be filed with the clerk of the court. No private psychiatrist, psychologist, or physician shall be appointed by the court unless such psychiatrist, psychologist or physician has consented to act. The examinations ordered shall be made at such time and place and under such conditions as the court deems proper; except that, if the order directs the director of the department of mental health to have the accused examined, the director, or the director's designee, shall determine the time, place and conditions under which the examination shall be conducted. The order may include provisions for the interview of witnesses and may require the provision of police reports to the department for use in evaluation. If an examination provided in section 552.020 was made and the report of such examination included an opinion as to whether, at the time of the alleged criminal conduct, the accused, as a result of mental disease or defect, did not know or appreciate the nature, quality or wrongfulness of such accused's conduct or as a result of mental disease or defect was incapable of conforming such accused's conduct to the requirements of law, such report may be received in evidence, and no new examination shall be required by the court unless, in the discretion of the court, another examination is necessary. If an examination is ordered pursuant to this section, the report shall contain the information required in subsections 3 and 4 of section 552.020. Within ten days after receiving a copy of such report, both the accused and the state shall, upon written request, be entitled to an order granting them an examination of the accused by an examiner of such accused's or its own choosing and at such accused's or its expense. The clerk of the court shall deliver copies of the report or reports to the prosecuting or circuit attorney and to the accused or his counsel. No reports required by this subsection shall be public records or be open to the public. Any examination performed pursuant to this subsection shall be completed and the results shall be filed with the court within sixty days of the date it is received by the department or private psychiatrist, psychologist or physician unless the court, for good cause, orders otherwise.

4. If the report contains the recommendation that the accused should be held in custody in a suitable hospital facility pending trial, and if the accused is not admitted to bail, or released on

other conditions, the court may order that the accused be committed to or held in a suitable hospital facility pending trial.

5. No statement made by the accused in the course of any such examination and no information received by any physician or other person in the course thereof, whether such examination was made with or without the consent of the accused or upon the accused's motion or upon that of others, shall be admitted in evidence against the accused on the issue of whether the accused committed the act charged against the accused in any criminal proceeding then or thereafter pending in any court, state or federal. The statement or information shall be admissible in evidence for or against the accused only on the issue of the accused's mental condition, whether or not it would otherwise be deemed to be a privileged communication. If the statement or information is admitted for or against the accused on the issue of the accused's mental condition, the court shall, both orally at the time of its admission and later by instruction, inform the jury that it must not consider such statement or information as any evidence of whether the accused committed the act charged against the accused.

6. All persons are presumed to be free of mental disease or defect excluding responsibility for their conduct, whether or not previously adjudicated in this or any other state to be or to have been sexual or social psychopaths, or incompetent; provided, however, the court may admit evidence presented at such adjudication based on its probative value. The issue of whether any person had a mental disease or defect excluding responsibility for such person's conduct is one for the trier of fact to decide upon the introduction of substantial evidence of lack of such responsibility. But, in the absence of such evidence, the presumption shall be conclusive. Upon the introduction of substantial evidence of lack of such responsibility, the presumption shall not disappear and shall alone be sufficient to take that issue to the trier of fact. The jury shall be instructed as to the existence and nature of such presumption when requested by the state and, where the issue of such responsibility is one for the jury to decide, the jury shall be told that the burden rests upon the accused to show by a preponderance or greater weight of the credible evidence that the defendant was suffering from a mental disease or defect excluding responsibility at the time of the conduct charged against the defendant. At the request of the defense the jury shall be instructed by the court as to the contents of subsection 2 of section 552.040.

7. When the accused is acquitted on the ground of mental disease or defect excluding responsibility, the verdict and the judgment shall so state as well as state the offense for which the accused was acquitted. The clerk of the court shall furnish a copy of any judgment or order of commitment to the department of mental health pursuant to this section to the criminal records central repository pursuant to section 43.503.

**552.040. DEFINITIONS — ACQUITTAL BASED ON MENTAL DISEASE OR DEFECT, COMMITMENT TO STATE HOSPITAL REQUIRED — IMMEDIATE CONDITIONAL RELEASE — CONDITIONAL OR UNCONDITIONAL RELEASE, WHEN — PRIOR COMMITMENT, AUTHORITY TO REVOKE — APPLICATIONS FOR RELEASE, NOTICE, BURDEN OF PERSUASION, CRITERIA — HEARINGS REQUIRED, WHEN — DENIAL, REAPPLICATION — ESCAPE, NOTICE — ADDITIONAL CRITERIA FOR RELEASE. —** 1. For the purposes of this section, the following words mean:

(1) "Prosecutor of the jurisdiction", the prosecuting attorney in a county or the circuit attorney of a city not within a county;

(2) "Secure facility", a state mental health facility, state [mental retardation] **developmental disability** facility, private facility under contract with the department of mental health, or a section within any of these facilities, in which persons committed to the department of mental health pursuant to this chapter, shall not be permitted to move about the facility or section of the facility, nor to leave the facility or section of the facility, without approval by the head of the facility or such head's designee and adequate supervision consistent with the safety of the public and the person's treatment, habilitation or rehabilitation plan;

(3) "Tried and acquitted" includes both pleas of mental disease or defect excluding responsibility that are accepted by the court and acquittals on the ground of mental disease or defect excluding responsibility following the proceedings set forth in section 552.030.

2. When an accused is tried and acquitted on the ground of mental disease or defect excluding responsibility, the court shall order such person committed to the director of the department of mental health for custody. The court shall also order custody and care in a state mental health or retardation facility unless an immediate conditional release is granted pursuant to this section. If the accused has not been charged with a dangerous felony as defined in section 556.061, or with murder in the first degree pursuant to section 565.020, or sexual assault pursuant to section 566.040, or the attempts thereof, and the examination contains an opinion that the accused should be immediately conditionally released to the community by the court, the court shall hold a hearing to determine if an immediate conditional release is appropriate pursuant to the procedures for conditional release set out in subsections 10 to 14 of this section. Prior to the hearing, the court shall direct the director of the department of mental health, or the director's designee, to have the accused examined to determine conditions of confinement in accordance with subsection 4 of section 552.020. The provisions of subsection 16 of this section shall be applicable to defendants granted an immediate conditional release and the director shall honor the immediate conditional release as granted by the court. If the court determines that an immediate conditional release is warranted, the court shall order the person committed to the director of the department of mental health before ordering such a release. The court granting the immediate conditional release shall retain jurisdiction over the case for the duration of the conditional release. This shall not limit the authority of the director of the department of mental health or the director's designee to revoke the conditional release or the trial release of any committed person pursuant to subsection 17 of this section. If the accused is committed to a mental health or [mental retardation] **developmental disability** facility, the director of the department of mental health, or the director's designee, shall determine the time, place and conditions of confinement.

3. The provisions of sections 630.110, 630.115, 630.130, 630.133, 630.135, 630.140, 630.145, 630.150, 630.180, 630.183, 630.192, 630.194, 630.196, 630.198, 630.805, 632.370, 632.395, and 632.435 shall apply to persons committed pursuant to subsection 2 of this section. If the department does not have a treatment or rehabilitation program for a mental disease or defect of an individual, that fact may not be the basis for a release from commitment. Notwithstanding any other provision of law to the contrary, no person committed to the department of mental health who has been tried and acquitted by reason of mental disease or defect as provided in section 552.030 shall be conditionally or unconditionally released unless the procedures set out in this section are followed. Upon request by an indigent committed person, the appropriate court may appoint the office of the public defender to represent such person in any conditional or unconditional release proceeding under this section.

4. Notwithstanding section 630.115, any person committed pursuant to subsection 2 of this section shall be kept in a secure facility until such time as a court of competent jurisdiction enters an order granting a conditional or unconditional release to a nonsecure facility.

5. The committed person or the head of the facility where the person is committed may file an application in the court that committed the person seeking an order releasing the committed person unconditionally; except that any person who has been denied an application for a conditional release pursuant to subsection 13 of this section shall not be eligible to file for an unconditional release until the expiration of one year from such denial. In the case of a person who was immediately conditionally released after being committed to the department of mental health, the released person or the director of the department of mental health, or the director's designee, may file an application in the same court that released the committed person seeking an order releasing the committed person unconditionally. Copies of the application shall be served personally or by certified mail upon the head of the facility unless the head of the facility files the application, the committed person unless the committed person files the application, or unless the committed

person was immediately conditionally released, the director of the department of mental health, and the prosecutor of the jurisdiction where the committed person was tried and acquitted. Any party objecting to the proposed release must do so in writing within thirty days after service. Within a reasonable period of time after any written objection is filed, which period shall not exceed sixty days unless otherwise agreed upon by the parties, the court shall hold a hearing upon notice to the committed person, the head of the facility, if necessary, the director of the department of mental health, and the prosecutor of the jurisdiction where the person was tried. Prior to the hearing any of the parties, upon written application, shall be entitled to an examination of the committed person, by a psychiatrist or psychologist, as defined in section 632.005, or a physician with a minimum of one year training or experience in providing treatment or services to mentally retarded or mentally ill individuals of its own choosing and at its expense. The report of the mental condition of the committed person shall accompany the application. By agreement of all parties to the proceeding any report of the mental condition of the committed person which may accompany the application for release or which is filed in objection thereto may be received by evidence, but the party contesting any opinion therein shall have the right to summon and to cross-examine the examiner who rendered such opinion and to offer evidence upon the issue.

6. By agreement of all the parties and leave of court, the hearing may be waived, in which case an order granting an unconditional release shall be entered in accordance with subsection 8 of this section.

7. At a hearing to determine if the committed person should be unconditionally released, the court shall consider the following factors in addition to any other relevant evidence:

- (1) Whether or not the committed person presently has a mental disease or defect;
- (2) The nature of the offense for which the committed person was committed;
- (3) The committed person's behavior while confined in a mental health facility;
- (4) The elapsed time between the hearing and the last reported unlawful or dangerous act;
- (5) Whether the person has had conditional releases without incident; and
- (6) Whether the determination that the committed person is not dangerous to himself or others is dependent on the person's taking drugs, medicine or narcotics. The burden of persuasion for any person committed to a mental health facility under the provisions of this section upon acquittal on the grounds of mental disease or defect excluding responsibility shall be on the party seeking unconditional release to prove by clear and convincing evidence that the person for whom unconditional release is sought does not have, and in the reasonable future is not likely to have, a mental disease or defect rendering the person dangerous to the safety of himself or others.

8. The court shall enter an order either denying the application for unconditional release or granting an unconditional release. An order denying the application shall be without prejudice to the filing of another application after the expiration of one year from the denial of the last application.

9. No committed person shall be unconditionally released unless it is determined through the procedures in this section that the person does not have, and in the reasonable future is not likely to have, a mental disease or defect rendering the person dangerous to the safety of himself or others.

10. The committed person or the head of the facility where the person is committed may file an application in the court having probate jurisdiction over the facility where the person is detained for a hearing to determine whether the committed person shall be released conditionally. In the case of a person committed to a mental health facility upon acquittal on the grounds of mental disease or defect excluding responsibility for a dangerous felony as defined in section 556.061, murder in the first degree pursuant to section 565.020, or sexual assault pursuant to section 566.040, any such application shall be filed in the court that committed the person. In such cases, jurisdiction over the application for conditional release shall be in the committing court. In the case of a person who was immediately conditionally released after being committed to the department of mental health, the released person or the director of the department of mental health, or the director's designee, may file an application in the same court that released the person seeking to

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amend or modify the existing release. The procedures for application for unconditional releases set out in subsection 5 of this section shall apply, with the following additional requirements:

(1) A copy of the application shall also be served upon the prosecutor of the jurisdiction where the person is being detained, unless the released person was immediately conditionally released after being committed to the department of mental health, or unless the application was required to be filed in the court that committed the person in which case a copy of the application shall be served upon the prosecutor of the jurisdiction where the person was tried and acquitted and the prosecutor of the jurisdiction into which the committed person is to be released;

(2) The prosecutor of the jurisdiction where the person was tried and acquitted shall use their best efforts to notify the victims of dangerous felonies. Notification by the appropriate person or agency by certified mail to the most current address provided by the victim shall constitute compliance with the victim notification requirement of this section;

(3) The application shall specify the conditions and duration of the proposed release;

(4) The prosecutor of the jurisdiction where the person is being detained shall represent the public safety interest at the hearing unless the prosecutor of the jurisdiction where the person was tried and acquitted decides to appear to represent the public safety interest. If the application for release was required to be filed in the committing court, the prosecutor of the jurisdiction where the person was tried and acquitted shall represent the public safety interest. In the case of a person who was immediately conditionally released after being committed to the department of mental health, the prosecutor of the jurisdiction where the person was tried and acquitted shall appear and represent the public safety interest.

11. By agreement of all the parties, the hearing may be waived, in which case an order granting a conditional release, stating the conditions and duration agreed upon by all the parties and the court, shall be entered in accordance with subsection 13 of this section.

12. At a hearing to determine if the committed person should be conditionally released, the court shall consider the following factors in addition to any other relevant evidence:

(1) The nature of the offense for which the committed person was committed;

(2) The person's behavior while confined in a mental health facility;

(3) The elapsed time between the hearing and the last reported unlawful or dangerous act;

(4) The nature of the person's proposed release plan;

(5) The presence or absence in the community of family or others willing to take responsibility to help the defendant adhere to the conditions of the release; and

(6) Whether the person has had previous conditional releases without incident. The burden of persuasion for any person committed to a mental health facility under the provisions of this section upon acquittal on the grounds of mental disease or defect excluding responsibility shall be on the party seeking release to prove by clear and convincing evidence that the person for whom release is sought is not likely to be dangerous to others while on conditional release.

13. The court shall enter an order either denying the application for a conditional release or granting conditional release. An order denying the application shall be without prejudice to the filing of another application after the expiration of one year from the denial of the last application.

14. No committed person shall be conditionally released until it is determined that the committed person is not likely to be dangerous to others while on conditional release.

15. If, in the opinion of the head of a facility where a committed person is being detained, that person can be released without danger to others, that person may be released from the facility for a trial release of up to ninety-six hours under the following procedure:

(1) The head of the facility where the person is committed shall notify the prosecutor of the jurisdiction where the committed person was tried and acquitted and the prosecutor of the jurisdiction into which the committed person is to be released at least thirty days before the date of the proposed trial release;

(2) The notice shall specify the conditions and duration of the release;

(3) If no prosecutor to whom notice is required objects to the trial release, the committed person shall be released according to conditions and duration specified in the notice;

(4) If any prosecutor objects to the trial release, the head of the facility may file an application with the court having probate jurisdiction over the facility where the person is detained for a hearing under the procedures set out in subsections 5 and 10 of this section with the following additional requirements:

(a) A copy of the application shall also be served upon the prosecutor of the jurisdiction into which the committed person is to be released; and

(b) The prosecutor or prosecutors who objected to the trial release shall represent the public safety interest at the hearing; and

(5) The release criteria of subsections 12 to 14 of this section shall apply at such a hearing.

16. The department shall provide or shall arrange for follow-up care and monitoring for all persons conditionally released under this section and shall make or arrange for reviews and visits with the client at least monthly, or more frequently as set out in the release plan, and whether the client is receiving care, treatment, habilitation or rehabilitation consistent with his needs, condition and public safety. The department shall identify the facilities, programs or specialized services operated or funded by the department which shall provide necessary levels of follow-up care, aftercare, rehabilitation or treatment to the persons in geographical areas where they are released.

17. The director of the department of mental health, or the director's designee, may revoke the conditional release or the trial release and request the return of the committed person if such director or coordinator has reasonable cause to believe that the person has violated the conditions of such release. If requested to do so by the director or coordinator, a peace officer of a jurisdiction in which a patient on conditional release is found shall apprehend and return such patient to the facility. No peace officer responsible for apprehending and returning the committed person to the facility upon the request of the director or coordinator shall be civilly liable for apprehending or transporting such patient to the facility so long as such duties were performed in good faith and without negligence. If a person on conditional release is returned to a facility under the provisions of this subsection, a hearing shall be held within ninety-six hours, excluding Saturdays, Sundays and state holidays, to determine whether the person violated the conditions of the release or whether resumption of full-time hospitalization is the least restrictive alternative consistent with the person's needs and public safety. The director of the department of mental health, or the director's designee, shall conduct the hearing. The person shall be given notice at least twenty-four hours in advance of the hearing and shall have the right to have an advocate present.

18. At any time during the period of a conditional release or trial release, the court which ordered the release may issue a notice to the released person to appear to answer a charge of a violation of the terms of the release and the court may issue a warrant of arrest for the violation. Such notice shall be personally served upon the released person. The warrant shall authorize the return of the released person to the custody of the court or to the custody of the director of mental health or the director's designee.

19. The head of a mental health facility, upon any notice that a committed person has escaped confinement, or left the facility or its grounds without authorization, shall immediately notify the prosecutor and sheriff of the county wherein the committed person is detained of the escape or unauthorized leaving of grounds and the prosecutor and sheriff of the county where the person was tried and acquitted.

20. Any person committed to a mental health facility under the provisions of this section upon acquittal on the grounds of mental disease or defect excluding responsibility for a dangerous felony as defined in section 556.061, murder in the first degree pursuant to section 565.020, or sexual assault pursuant to section 566.040 shall not be eligible for conditional or unconditional release under the provisions of this section unless, in addition to the requirements of this section, the court finds that the following criteria are met:

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(1) Such person is not now and is not likely in the reasonable future to commit another violent crime against another person because of such person's mental illness; and

(2) Such person is aware of the nature of the violent crime committed against another person and presently possesses the capacity to appreciate the criminality of the violent crime against another person and the capacity to conform such person's conduct to the requirements of law in the future.

**630.003. DEPARTMENT CREATED — STATE MENTAL HEALTH COMMISSION — MISSOURI INSTITUTE OF MENTAL HEALTH— TRANSFERS OF POWERS AND AGENCIES. — 1.** There is hereby created a department of mental health to be headed by a mental health commission who shall appoint a director, by and with the advice and consent of the senate. The director shall be the administrative head of the department and shall serve at the pleasure of the commission and be compensated as provided by law for the director, division of mental health. All employees of the department shall be selected in accordance with chapter 36.

2. (1) The "State Mental Health Commission", composed of seven members, is the successor to the former state mental health commission and it has all the powers, duties and responsibilities of the former commission. All members of the commission shall be appointed by the governor, by and with the advice and consent of the senate. None of the members shall otherwise be employed by the state of Missouri.

(2) Three of the commission members first appointed shall be appointed for terms of four years, and two shall be appointed for terms of three years, and two shall be appointed for a term of two years. The governor shall designate, at the time the appointments are made, the length of the term of each member so appointed. Thereafter all terms shall be for four years.

(3) At least two of the members of the commission shall be physicians, one of whom shall be recognized as an expert in the field of the treatment of nervous and mental diseases, and one of whom shall be recognized as an expert in the field of [mental retardation or of other] **intellectual or** developmental disabilities. At least two of the members of the commission shall be representative of persons or groups who are consumers having substantial interest in the services provided by the division, one of whom shall represent [the mentally retarded or developmentally disabled] **persons with an intellectual disability or developmental disability** and one of whom shall represent those persons being treated for nervous and mental diseases. Of the other three members at least one must be recognized for his expertise in general business management procedures, and two shall be recognized for their interest and expertise in dealing with alcohol/drug abuse problems, or community mental health services.

3. The provisions of sections 191.120, 191.125, 191.130, 191.140, 191.150, 191.160, 191.170, 191.180, 191.190, 191.200, 191.210 and others as they relate to the division of mental health not previously reassigned by executive reorganization plan number 2 of 1973 as submitted by the governor under chapter 26 are transferred by specific type transfer from the department of public health and welfare to the department of mental health. The division of mental health, department of health and welfare, chapter 202 and others are abolished and all powers, duties and functions now assigned by law to the division, the director of the divisions of mental health or any of the institutions or officials of the division are transferred by type I transfer to the department of mental health.

4. The Missouri institute of psychiatry, which is under the board of curators of the University of Missouri is hereafter to be known as the "Missouri Institute of Mental Health". The purpose of the institute will be that of conducting research into improving services for persons served by the department of mental health for fostering the training of psychiatric residents in public psychiatry and for fostering excellence in mental health services through employee training and the study of mental health policy and ethics. To assist in this training, hospitals operated by and providers contracting with the department of mental health may be used for the same purposes and under the same arrangements as the board of curators of the University of Missouri utilizes with other

hospitals in the state in supervising residency training for medical doctors. Appropriations requests for the Missouri institute of mental health shall be jointly developed by the University of Missouri and the department of mental health. All appropriations for the Missouri institute of mental health shall be made to the curators of the University of Missouri but shall be submitted separately from the appropriations of the curators of the University of Missouri.

5. There is hereby established within the department of mental health a division of [mental retardation and] developmental disabilities. The director of the division shall be appointed by the director of the department. The division shall administer all state facilities under the direction and authority of the department director. The Marshall Habilitation Center, the Higginsville Habilitation Center, the Bellefontaine Habilitation Center, the Nevada Habilitation Center, the St. Louis Developmental Disabilities Treatment Centers, and the regional centers located at Albany, Columbia, Hannibal, Joplin, Kansas City, Kirksville, Poplar Bluff, Rolla, St. Louis, Sikeston and Springfield and other similar facilities as may be established, are transferred by type I transfer to the division of [mental retardation and] developmental disabilities.

6. All the duties, powers and functions of the advisory council on mental retardation and community health centers, sections 202.664 to 202.666, are hereby transferred by type I transfer to the division of mental retardation and developmental disabilities of the department of mental health. The advisory council on mental retardation and community health centers shall be appointed by the division director.

7. The advisory council on mental retardation and developmental disabilities heretofore established by executive order and all of the duties, powers and functions of the advisory council including the responsibilities of the provision of the council in regard to the Federal Development Disabilities Law (P.L. 91-517) and all amendments thereto are transferred by type I transfer to the division of mental retardation and developmental disabilities. The advisory council on mental retardation and developmental disabilities shall be appointed by the director of the division of mental retardation and developmental disabilities.

8. The advisory council on alcoholism and drug abuse, chapter 202, is transferred by type II transfer to the department of mental health and the members of the advisory council shall be appointed by the mental health director.

**630.005. DEFINITIONS.** — As used in this chapter and chapters 631, 632, and 633, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Administrative entity", a provider of specialized services other than transportation to clients of the department on behalf of a division of the department;

(2) "Alcohol abuse", the use of any alcoholic beverage, which use results in intoxication or in a psychological or physiological dependency from continued use, which dependency induces a mental, emotional or physical impairment and which causes socially dysfunctional behavior;

(3) "Chemical restraint", medication administered with the primary intent of restraining a patient who presents a likelihood of serious physical injury to himself or others, and not prescribed to treat a person's medical condition;

(4) "Client", any person who is placed by the department in a facility or program licensed and funded by the department or who is a recipient of services from a regional center, as defined in section 633.005;

(5) "Commission", the state mental health commission;

(6) "Consumer", a person:

(a) Who qualifies to receive department services; or

(b) Who is a parent, child or sibling of a person who receives department services; or

(c) Who has a personal interest in services provided by the department. A person who provides services to persons affected by [mental retardation,] **intellectual disabilities**, developmental disabilities, mental disorders, mental illness, or alcohol or drug abuse shall not be considered a consumer;

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(7) "Day program", a place conducted or maintained by any person who advertises or holds himself out as providing prevention, evaluation, treatment, habilitation or rehabilitation for persons affected by mental disorders, mental illness, [mental retardation,] **intellectual disabilities**, developmental disabilities or alcohol or drug abuse for less than the full twenty-four hours comprising each daily period;

(8) "Department", the department of mental health of the state of Missouri;

(9) "Developmental disability", a disability:

(a) Which is attributable to:

a. Mental retardation, cerebral palsy, epilepsy, head injury or autism, or a learning disability related to a brain dysfunction; or

b. Any other mental or physical impairment or combination of mental or physical impairments; and

(b) Is manifested before the person attains age twenty-two; and

(c) Is likely to continue indefinitely; and

(d) Results in substantial functional limitations in two or more of the following areas of major life activities:

a. Self-care;

b. Receptive and expressive language development and use;

c. Learning;

d. Self-direction;

e. Capacity for independent living or economic self-sufficiency;

f. Mobility; and

(e) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, habilitation or other services which may be of lifelong or extended duration and are individually planned and coordinated;

(10) "Director", the director of the department of mental health, or his designee;

(11) "Domiciled in Missouri", a permanent connection between an individual and the state of Missouri, which is more than mere residence in the state; it may be established by the individual being physically present in Missouri with the intention to abandon his previous domicile and to remain in Missouri permanently or indefinitely;

(12) "Drug abuse", the use of any drug without compelling medical reason, which use results in a temporary mental, emotional or physical impairment and causes socially dysfunctional behavior, or in psychological or physiological dependency resulting from continued use, which dependency induces a mental, emotional or physical impairment and causes socially dysfunctional behavior;

(13) "Habilitation", a process of treatment, training, care or specialized attention which seeks to enhance and maximize [the mentally retarded or developmentally disabled person's abilities] **a person with an intellectual disability or a developmental disability** to cope with the environment and to live as normally as possible;

(14) "Habilitation center", a residential facility operated by the department and serving only persons who are [mentally retarded, including] developmentally disabled;

(15) "Head of the facility", the chief administrative officer, or his designee, of any residential facility;

(16) "Head of the program", the chief administrative officer, or his designee, of any day program;

(17) "Individualized habilitation plan", a document which sets forth habilitation goals and objectives for [mentally retarded or developmentally disabled] residents and clients **with an intellectual disability or a developmental disability**, and which details the habilitation program as required by law, rules and funding sources;

(18) "Individualized rehabilitation plan", a document which sets forth the care, treatment and rehabilitation goals and objectives for patients and clients affected by alcohol or drug abuse, and which details the rehabilitation program as required by law, rules and funding sources;

(19) "Individualized treatment plan", a document which sets forth the care, treatment and rehabilitation goals and objectives for [mentally disordered or mentally ill] patients and clients **with mental disorders or mental illness**, and which details the treatment program as required by law, rules and funding sources;

(20) "Investigator", an employee or contract agent of the department of mental health who is performing an investigation regarding an allegation of abuse or neglect or an investigation at the request of the director of the department of mental health or his designee;

(21) "Least restrictive environment", a reasonably available setting or mental health program where care, treatment, habilitation or rehabilitation is particularly suited to the level and quality of services necessary to implement a person's individualized treatment, habilitation or rehabilitation plan and to enable the person to maximize his **or her** functioning potential to participate as freely as feasible in normal living activities, giving due consideration to potentially harmful effects on the person and the safety of other facility or program clients and public safety. For some [mentally disordered or mentally retarded] persons **with mental disorders, intellectual disabilities, or developmental disabilities**, the least restrictive environment may be a facility operated by the department, a private facility, a supported community living situation, or an alternative community program designed for persons who are civilly detained for outpatient treatment or who are conditionally released pursuant to chapter 632;

(22) "Mental disorder", any organic, mental or emotional impairment which has substantial adverse effects on a person's cognitive, volitional or emotional function and which constitutes a substantial impairment in a person's ability to participate in activities of normal living;

(23) "Mental illness", a state of impaired mental processes, which impairment results in a distortion of a person's capacity to recognize reality due to hallucinations, delusions, faulty perceptions or alterations of mood, and interferes with an individual's ability to reason, understand or exercise conscious control over his actions. The term "mental illness" does not include the following conditions unless they are accompanied by a mental illness as otherwise defined in this subdivision:

- (a) Mental retardation, developmental disability or narcolepsy;
  - (b) Simple intoxication caused by substances such as alcohol or drugs;
  - (c) Dependence upon or addiction to any substances such as alcohol or drugs;
  - (d) Any other disorders such as senility, which are not of an actively psychotic nature;
- (24) "Mental retardation", significantly subaverage general intellectual functioning which:

- (a) Originates before age eighteen; and
  - (b) Is associated with a significant impairment in adaptive behavior;
- (25) "Minor", any person under the age of eighteen years;

(26) "Patient", an individual under observation, care, treatment or rehabilitation by any hospital or other mental health facility or mental health program pursuant to the provisions of chapter 632;

(27) "Psychosurgery",

(a) Surgery on the normal brain tissue of an individual not suffering from physical disease for the purpose of changing or controlling behavior; or

(b) Surgery on diseased brain tissue of an individual if the sole object of the surgery is to control, change or affect behavioral disturbances, except seizure disorders;

(28) "Rehabilitation", a process of restoration of a person's ability to attain or maintain normal or optimum health or constructive activity through care, treatment, training, counseling or specialized attention;

(29) "Residence", the place where the patient has last generally lodged prior to admission or, in case of a minor, where his family has so lodged; except, that admission or detention in any

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facility of the department shall not be deemed an absence from the place of residence and shall not constitute a change in residence;

(30) "Resident", a person receiving residential services from a facility, other than mental health facility, operated, funded or licensed by the department;

(31) "Residential facility", any premises where residential prevention, evaluation, care, treatment, habilitation or rehabilitation is provided for persons affected by mental disorders, mental illness, [mental retardation] **intellectual disability**, developmental disabilities or alcohol or drug abuse; except the person's dwelling;

(32) "Specialized service", an entity which provides prevention, evaluation, transportation, care, treatment, habilitation or rehabilitation services to persons affected by mental disorders, mental illness, [mental retardation,] **intellectual disabilities**, developmental disabilities or alcohol or drug abuse;

(33) "Vendor", a person or entity under contract with the department, other than as a department employee, who provides services to patients, residents or clients;

(34) "Vulnerable person", any person in the custody, care, or control of the department that is receiving services from an operated, funded, licensed, or certified program.

**630.010. MENTAL HEALTH COMMISSION — MEMBERS, TERMS, QUALIFICATIONS, APPOINTMENT, VACANCIES, COMPENSATION — ORGANIZATION, MEETINGS.** — 1. The state mental health commission, established by the omnibus reorganization act of 1974, section 9, appendix B, RSMo, shall be composed of seven members appointed by the governor, by and with the advice and consent of the senate. The terms of members appointed under the reorganization act before August 13, 1980, shall continue until the terms under which the members were regularly appointed expire. The terms shall be for four years. Each commissioner shall hold office until his successor has been appointed and qualified.

2. The commission shall be comprised of members who are not prohibited from serving by sections 105.450 to 105.482, as amended, and who are not otherwise employed by the state. The commission shall be composed of the following:

- (1) A physician recognized as an expert in the treatment of mental illness;
  - (2) A physician recognized as an expert in the evaluation or habilitation of [the mentally retarded and developmentally disabled] **persons with an intellectual disability or developmental disability**;
  - (3) A representative of groups who are consumers or families of consumers interested in the services provided by the department in the treatment of mental illness;
  - (4) A representative of groups who are consumers or families of consumers interested in the services provided by the department in the habilitation of [the mentally retarded] **persons with an intellectual disability or developmental disability**;
  - (5) A person recognized for his expertise in general business matters and procedures;
  - (6) A person recognized for his interest and expertise in dealing with alcohol or drug abuse;
- and
- (7) A person recognized for his interest or expertise in community mental health services.

3. Vacancies occurring on the commission shall be filled by appointment by the governor, by and with the advice and consent of the senate, for the unexpired terms. In case of a vacancy when the senate is not in session, the governor shall make a temporary appointment until the next session of the general assembly, when he shall nominate someone to fill the office.

4. The commission shall elect from its members a chairman and a secretary. Meetings shall be held at least once a month, and special meetings may be held at the call of the chairman.

5. The department shall pay the commission members one hundred dollars per day for each day, or portion thereof, they actually spend in transacting the business of the commission and shall

reimburse the commission members for necessary expenses actually incurred in the performance of their official duties.

**630.053. MENTAL HEALTH EARNINGS FUND — USES — RULES AND REGULATIONS, PROCEDURE.** — 1. There is hereby created in the state treasury a fund to be known as the "Mental Health Earnings Fund". The state treasurer shall credit to the fund any interest earned from investing the moneys in the fund. Notwithstanding the provisions of section 33.080, money in the mental health earnings fund shall not be transferred and placed to the credit of general revenue at the end of the biennium.

2. Fees received pursuant to the substance abuse traffic offenders program shall be deposited in the mental health earnings fund. Such fees shall not be used for personal services, expenses and equipment or for any demonstration or other program. No other federal or state funds shall be deposited in the fund, except for the purposes provided in subsections 3 [and 4] to 5 of this section. The moneys received from such fees shall be appropriated solely for assistance in securing alcohol and drug rehabilitation services for persons who are unable to pay for the services they receive.

3. The mental health earnings fund may be used for the deposit of revenue received for the provision of services under a managed care agreement entered into by the department of mental health. Subject to the approval through the appropriation process, such revenues may be expended for the purposes of providing such services pursuant to the managed care agreement and for no other purpose and shall be accounted for separately from all other revenues deposited in the fund.

4. The mental health earnings fund may, if approved through the appropriation process, be used for the deposit of revenue received pursuant to an agreement entered into by the department of mental health and an alcohol and drug abuse counselor certification board for the purpose of providing oversight of counselor certification. Such revenue shall be accounted for separately from all other revenues deposited in the fund.

**5. The mental health earnings fund may be used for the deposit of revenue received from proceeds of any sales and services from Mental Health First Aid USA. Subject to the approval through the appropriation process, such proceeds shall be used for the purpose of funding Mental Health First Aid USA activities and shall be accounted for separately from all other revenues deposited in the fund.**

6. The department of mental health shall promulgate rules and regulations to implement and administer the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

**630.095. COPYRIGHTS AND TRADEMARKS BY DEPARTMENT.** — The department may copyright or obtain a trademark for any instructional, training and informational audio-visual materials, manuals and documents which are prepared by department personnel or by persons who receive department funding to prepare such material. If the material is sold directly or for distribution, the department shall pay the proceeds of the sales to the director of revenue for deposit to the general revenue fund, **except for proceeds received under subsection 5 of section 630.053.**

**630.097. COMPREHENSIVE CHILDREN'S MENTAL HEALTH SERVICE SYSTEM TO BE DEVELOPED — TEAM ESTABLISHED, MEMBERS, DUTIES — PLAN TO BE DEVELOPED, CONTENT — EVALUATIONS TO BE CONDUCTED, WHEN.** — 1. The department of mental health shall develop, in partnership with all departments represented on the children's services commission, a unified accountable comprehensive children's mental health service system. The department of mental health shall establish a state interagency comprehensive children's mental health service system team comprised of representation from:

- (1) Family-run organizations and family members;
- (2) Child advocate organizations;
- (3) The department of health and senior services;
- (4) The department of social services' children's division, division of youth services, and the division of medical services;
- (5) The department of elementary and secondary education;
- (6) The department of mental health's division of alcohol and drug abuse, division of [mental retardation and] developmental disabilities, and the division of comprehensive psychiatric services;
- (7) The department of public safety;
- (8) The office of state courts administrator;
- (9) The juvenile justice system; and
- (10) Local representatives of the member organizations of the state team to serve children with emotional and behavioral disturbance problems, developmental disabilities, and substance abuse problems. The team shall be called "The Comprehensive System Management Team".

There shall be a stakeholder advisory committee to provide input to the comprehensive system management team to assist the departments in developing strategies and to ensure positive outcomes for children are being achieved. The department of mental health shall obtain input from appropriate consumer and family advocates when selecting family members for the comprehensive system management team, in consultation with the departments that serve on the children's services commission. The implementation of a comprehensive system shall include all state agencies and system partner organizations involved in the lives of the children served. These system partners may include private and not-for-profit organizations and representatives from local system of care teams and these partners may serve on the stakeholder advisory committee. The department of mental health shall promulgate rules for the implementation of this section in consultation with all of the departments represented on the children's services commission.

2. The department of mental health shall, in partnership with the departments serving on the children's services commission and the stakeholder advisory committee, develop a state comprehensive children's mental health service system plan. This plan shall be developed and submitted to the governor, the general assembly, and children's services commission by December, 2004. There shall be subsequent annual reports that include progress toward outcomes, monitoring, changes in populations and services, and emerging issues. The plan shall:

- (1) Describe the mental health service and support needs of Missouri's children and their families, including the specialized needs of specific segments of the population;
- (2) Define the comprehensive array of services including services such as intensive home-based services, early intervention services, family support services, respite services, and behavioral assistance services;
- (3) Establish short- and long-term goals, objectives, and outcomes;
- (4) Describe and define the parameters for local implementation of comprehensive children's mental health system teams;
- (5) Describe and emphasize the importance of family involvement in all levels of the system;
- (6) Describe the mechanisms for financing, and the cost of implementing the comprehensive array of services;
- (7) Describe the coordination of services across child-serving agencies and at critical transition points, with emphasis on the involvement of local schools;
- (8) Describe methods for service, program, and system evaluation;
- (9) Describe the need for, and approaches to, training and technical assistance; and
- (10) Describe the roles and responsibilities of the state and local child-serving agencies in implementing the comprehensive children's mental health care system.

3. The comprehensive system management team shall collaborate to develop uniform language to be used in intake and throughout the provision of services.

4. The comprehensive children's mental health services system shall:

(1) Be child centered, family focused, strength based, and family driven, with the needs of the child and family dictating the types and mix of services provided, and shall include the families as full participants in all aspects of the planning and delivery of services;

(2) Provide community-based mental health services to children and their families in the context in which the children live and attend school;

(3) Respond in a culturally competent and responsive manner;

(4) Emphasize prevention, early identification, and intervention;

(5) Assure access to a continuum of services that:

(a) Educate the community about the mental health needs of children;

(b) Address the unique physical, behavioral, emotional, social, developmental, and educational needs of children;

(c) Are coordinated with the range of social and human services provided to children and their families by local school districts, **the departments of** social services, health and senior services, **and** public safety, juvenile offices, and the juvenile and family courts;

(d) Provide a comprehensive array of services through an integrated service plan;

(e) Provide services in the least restrictive most appropriate environment that meets the needs of the child; and

(f) Are appropriate to the developmental needs of children;

(6) Include early screening and prompt intervention to:

(a) Identify and treat the mental health needs of children in the least restrictive environment appropriate to their needs; and

(b) Prevent further deterioration;

(7) Address the unique problems of paying for mental health services for children, including:

(a) Access to private insurance coverage;

(b) Public funding, including:

a. Assuring that funding follows children across departments; and

b. Maximizing federal financial participation;

(c) Private funding and services;

(8) Assure a smooth transition from child to adult mental health services when needed;

(9) Coordinate a service delivery system inclusive of services, providers, and schools that serve children and youth with emotional and behavioral disturbance problems, and their families through state agencies that serve on the state comprehensive children's management team; and

(10) Be outcome based.

5. By August 28, 2007, and periodically thereafter, the children's services commission shall conduct and distribute to the general assembly an evaluation of the implementation and effectiveness of the comprehensive children's mental health care system, including an assessment of family satisfaction and the progress of achieving outcomes.

**630.120. NO PRESUMPTIONS.** — No patient or resident, either voluntary or involuntary, shall be presumed to be incompetent, to forfeit any legal right, responsibility or obligation or to suffer any legal disability as a citizen, unless otherwise prescribed by law, as a consequence of receiving evaluation, care, treatment, habilitation or rehabilitation for a mental disorder, mental illness, [mental retardation] **intellectual disability**, developmental disability, alcohol problem or drug problem.

**630.165. SUSPECTED ABUSE OF PATIENT, REPORT, BY WHOM MADE, CONTENTS — EFFECT OF FAILURE TO REPORT — PENALTY.** — 1. When any physician, physician assistant, dentist, chiropractor, optometrist, podiatrist, intern, resident, nurse, nurse practitioner, medical examiner, social worker, licensed professional counselor, certified substance abuse counselor, psychologist, other health practitioner, minister, Christian Science practitioner, peace officer, pharmacist, physical therapist, facility administrator, nurse's aide, orderly or any other direct-care

staff in a residential facility, day program, group home or [mental retardation] **developmental disability** facility as defined in section 633.005, or specialized service operated, licensed, certified, or funded by the department or in a mental health facility or mental health program in which people may be admitted on a voluntary basis or are civilly detained pursuant to chapter 632, or employee of the departments of social services, mental health, or health and senior services; or home health agency or home health agency employee; hospital and clinic personnel engaged in examination, care, or treatment of persons; in-home services owner, provider, operator, or employee; law enforcement officer, long-term care facility administrator or employee; mental health professional, probation or parole officer, or other nonfamilial person with responsibility for the care of a patient, resident, or client of a facility, program, or service has reasonable cause to suspect that a patient, resident or client of a facility, program or service has been subjected to abuse or neglect or observes such person being subjected to conditions or circumstances that would reasonably result in abuse or neglect, he or she shall immediately report or cause a report to be made to the department in accordance with section 630.163.

2. Any person who knowingly fails to make a report as required in subsection 1 of this section is guilty of a class A misdemeanor and shall be subject to a fine up to one thousand dollars. Penalties collected for violations of this section shall be transferred to the state school moneys fund as established in section 166.051 and distributed to the public schools of this state in the manner provided in section 163.031. Such penalties shall not considered charitable for tax purposes.

3. Every person who has been previously convicted of or pled guilty to failing to make a report as required in subsection 1 of this section and who is subsequently convicted of failing to make a report under subsection 2 of this section is guilty of a class D felony and shall be subject to a fine up to five thousand dollars. Penalties collected for violation of this subsection shall be transferred to the state school moneys fund as established in section 166.051 and distributed to the public schools of this state in the manner provided in section 163.031. Such penalties shall not considered charitable for tax purposes.

4. Any person who knowingly files a false report of vulnerable person abuse or neglect is guilty of a class A misdemeanor and shall be subject to a fine up to one thousand dollars. Penalties collected for violations of this subsection shall be transferred to the state school moneys fund as established in section 166.051 and distributed to the public schools of this state in the manner provided in section 163.031. Such penalties shall not considered charitable for tax purposes.

5. Every person who has been previously convicted of or pled guilty to making a false report to the department and who is subsequently convicted of making a false report under subsection 4 of this section is guilty of a class D felony and shall be subject to a fine up to five thousand dollars. Penalties collected for violations of this subsection shall be transferred to the state school moneys fund as established in section 166.051 and distributed to the public schools of this state in the manner provided in section 163.031. Such penalties shall not considered charitable for tax purposes.

6. Evidence of prior convictions of false reporting shall be heard by the court, out of the hearing of the jury, prior to the submission of the case to the jury, and the court shall determine the existence of the prior convictions.

7. Any residential facility, day program, or specialized service operated, funded, or licensed by the department that prevents or discourages a patient, resident, [or] client, employee, or other person from reporting that a patient, resident, or client of a facility, program, or service has been abused or neglected shall be subject to loss of their license issued pursuant to sections 630.705 to 630.760 and civil fines of up to five thousand dollars for each attempt to prevent or discourage reporting.

**630.167. INVESTIGATION OF REPORT, WHEN MADE, BY WHOM — ABUSE PREVENTION BY REMOVAL, PROCEDURE — REPORTS CONFIDENTIAL, PRIVILEGED, EXCEPTIONS —**

**IMMUNITY OF REPORTER, NOTIFICATION — RETALIATION PROHIBITED — ADMINISTRATIVE DISCHARGE OF EMPLOYEE, APPEAL PROCEDURE.** — 1. Upon receipt of a report, the department or the department of health and senior services, if such facility or program is licensed pursuant to chapter 197, shall initiate an investigation within twenty-four hours.

2. If the investigation indicates possible abuse or neglect of a patient, resident or client, the investigator shall refer the complaint together with the investigator's report to the department director for appropriate action. If, during the investigation or at its completion, the department has reasonable cause to believe that immediate removal from a facility not operated or funded by the department is necessary to protect the residents from abuse or neglect, the department or the local prosecuting attorney may, or the attorney general upon request of the department shall, file a petition for temporary care and protection of the residents in a circuit court of competent jurisdiction. The circuit court in which the petition is filed shall have equitable jurisdiction to issue an ex parte order granting the department authority for the temporary care and protection of the resident for a period not to exceed thirty days.

3. (1) Except as otherwise provided in this section, reports referred to in section 630.165 and the investigative reports referred to in this section shall be confidential, shall not be deemed a public record, and shall not be subject to the provisions of section 109.180 or chapter 610. Investigative reports pertaining to abuse and neglect shall remain confidential until a final report is complete, subject to the conditions contained in this section. Final reports of substantiated abuse or neglect issued on or after August 28, 2007, are open and shall be available for release in accordance with chapter 610. The names and all other identifying information in such final substantiated reports, including diagnosis and treatment information about the patient, resident, or client who is the subject of such report, shall be confidential and may only be released to the patient, resident, or client who has not been adjudged incapacitated under chapter 475, the custodial parent or guardian parent, or other guardian of the patient, resident or client. The names and other descriptive information of the complainant, witnesses, or other persons for whom findings are not made against in the final substantiated report shall be confidential and not deemed a public record. Final reports of unsubstantiated allegations of abuse and neglect shall remain closed records and shall only be released to the parents or other guardian of the patient, resident, or client who is the subject of such report, patient, resident, or client and the department vendor, provider, agent, or facility where the patient, resident, or client was receiving department services at the time of the unsubstantiated allegations of abuse and neglect, but the names and any other descriptive information of the complainant or any other person mentioned in the reports shall not be disclosed unless such complainant or person specifically consents to such disclosure. Requests for final reports of substantiated or unsubstantiated abuse or neglect from a patient, resident or client who has not been adjudged incapacitated under chapter 475 may be denied or withheld if the director of the department or his or her designee determines that such release would jeopardize the person's therapeutic care, treatment, habilitation, or rehabilitation, or the safety of others and provided that the reasons for such denial or withholding are submitted in writing to the patient, resident or client who has not been adjudged incapacitated under chapter 475. All reports referred to in this section shall be admissible in any judicial proceedings or hearing in accordance with section [36.390] **621.075** or any administrative hearing before the director of the department of mental health, or the director's designee. All such reports may be disclosed by the department of mental health to law enforcement officers and public health officers, but only to the extent necessary to carry out the responsibilities of their offices, and to the department of social services, and the department of health and senior services, and to boards appointed pursuant to sections 205.968 to 205.990 that are providing services to the patient, resident or client as necessary to report or have investigated abuse, neglect, or rights violations of patients, residents or clients provided that all such law enforcement officers, public health officers, department of social services' officers, department of health and senior services' officers, and boards shall be obligated to keep such information confidential.



(2) Except as otherwise provided in this section, the proceedings, findings, deliberations, reports and minutes of committees of health care professionals as defined in section 537.035 or mental health professionals as defined in section 632.005 who have the responsibility to evaluate, maintain, or monitor the quality and utilization of mental health services are privileged and shall not be subject to the discovery, subpoena or other means of legal compulsion for their release to any person or entity or be admissible into evidence into any judicial or administrative action for failure to provide adequate or appropriate care. Such committees may exist, either within department facilities or its agents, contractors, or vendors, as applicable. Except as otherwise provided in this section, no person who was in attendance at any investigation or committee proceeding shall be permitted or required to disclose any information acquired in connection with or in the course of such proceeding or to disclose any opinion, recommendation or evaluation of the committee or board or any member thereof; provided, however, that information otherwise discoverable or admissible from original sources is not to be construed as immune from discovery or use in any proceeding merely because it was presented during proceedings before any committee or in the course of any investigation, nor is any member, employee or agent of such committee or other person appearing before it to be prevented from testifying as to matters within their personal knowledge and in accordance with the other provisions of this section, but such witness cannot be questioned about the testimony or other proceedings before any investigation or before any committee.

(3) Nothing in this section shall limit authority otherwise provided by law of a health care licensing board of the state of Missouri to obtain information by subpoena or other authorized process from investigation committees or to require disclosure of otherwise confidential information relating to matters and investigations within the jurisdiction of such health care licensing boards; provided, however, that such information, once obtained by such board and associated persons, shall be governed in accordance with the provisions of this subsection.

(4) Nothing in this section shall limit authority otherwise provided by law in subdivisions (5) and (6) of subsection 2 of section 630.140 concerning access to records by the entity or agency authorized to implement a system to protect and advocate the rights of persons with developmental disabilities under the provisions of 42 U.S.C. Sections 15042 to 15044 and the entity or agency authorized to implement a system to protect and advocate the rights of persons with mental illness under the provisions of 42 U.S.C. 10801. In addition, nothing in this section shall serve to negate assurances that have been given by the governor of Missouri to the U.S. Administration on Developmental Disabilities, Office of Human Development Services, Department of Health and Human Services concerning access to records by the agency designated as the protection and advocacy system for the state of Missouri. However, such information, once obtained by such entity or agency, shall be governed in accordance with the provisions of this subsection.

4. Anyone who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from the report shall be immune from any civil liability for making such a report or for testifying unless such person acted in bad faith or with malicious purpose.

5. Within five working days after a report required to be made pursuant to this section is received, the person making the report shall be notified in writing of its receipt and of the initiation of the investigation.

6. No person who directs or exercises any authority in a residential facility, day program or specialized service shall evict, harass, dismiss or retaliate against a patient, resident or client or employee because he or she or any member of his or her family has made a report of any violation or suspected violation of laws, ordinances or regulations applying to the facility which he or she has reasonable cause to believe has been committed or has occurred.

7. Any person who is discharged as a result of an administrative substantiation of allegations contained in a report of abuse or neglect may, after exhausting administrative remedies as provided in chapter 36, appeal such decision to the circuit court of the county in which such person resides

within ninety days of such final administrative decision. The court may accept an appeal up to twenty-four months after the party filing the appeal received notice of the department's determination, upon a showing that:

- (1) Good cause exists for the untimely commencement of the request for the review;
- (2) If the opportunity to appeal is not granted it will adversely affect the party's opportunity for employment; and
- (3) There is no other adequate remedy at law.

**630.183. OFFICERS MAY AUTHORIZE MEDICAL TREATMENT FOR PATIENT.** — Subject to other provisions of this chapter, the head of a mental health or [mental retardation] **developmental disability** facility may authorize the medical and surgical treatment of a patient or resident under the following circumstances:

- (1) Upon consent of a patient or resident who is competent;
- (2) Upon consent of a parent or legal guardian of a patient or resident who is a minor or legally incapacitated;
- (3) Pursuant to the provisions of chapter 431;
- (4) Pursuant to an order of a court of competent jurisdiction.

**630.192. LIMITATIONS ON RESEARCH ACTIVITIES IN MENTAL HEALTH FACILITIES AND PROGRAMS.** — No biomedical or pharmacological research shall be conducted in any mental health facility or mental health program in which people may be civilly detained pursuant to chapter 632 or in any public or private residential facilities or day programs operated, funded or licensed by the department for persons affected by [mental retardation] **intellectual disabilities**, developmental disabilities, mental illness, mental disorders or alcohol or drug abuse unless such research is intended to alleviate or prevent the disabling conditions or is reasonably expected to be of direct therapeutic benefit to the participants. Without a specific court order, no involuntary patient shall consent to participate in any biomedical or pharmacological research. The application for the order shall be filed in the court having probate jurisdiction in the county in which the mental health facility is located, provided, however, that if the patient requests that the hearing be held by the court which has committed the patient, or if the court having probate jurisdiction deems it appropriate, the hearing on the application shall be transferred to the committing court.

**630.210. CHARGES FOR PAY PATIENTS — EACH FACILITY CONSIDERED A SEPARATE UNIT — DIRECTOR TO DETERMINE RULES FOR MEANS TEST AND DOMICILE VERIFICATION — FAILURE TO PAY, EFFECT — EXCEPTIONS, EMERGENCY TREATMENT FOR TRANSIENTS — WAIVER OF MEANS TEST FOR CERTAIN CHILDREN, WHEN.** — 1. The director shall determine the maximum amount for services which shall be charged in each of the residential facilities, day programs or specialized services operated or funded by the department for full-time or part-time inpatient, resident or outpatient evaluation, care, treatment, habilitation, rehabilitation or other service rendered to persons affected by mental disorder, mental illness, [mental retardation,] **intellectual disability**, developmental disability, or drug or alcohol abuse. The maximum charge shall be related to the per capita inpatient cost or actual outpatient evaluation or other service costs of each facility, program or service, which may vary from one locality to another. The director shall promulgate rules setting forth a reasonable standard means test which shall be applied by all facilities, programs and services operated or funded by the department in determining the amount to be charged to persons receiving services. The department shall pay, out of funds appropriated to it for such purpose, all or part of the costs for the evaluation, care, treatment, habilitation, rehabilitation or room and board provided or arranged by the department for any patient, resident or client who is domiciled in Missouri and who is unable to pay fully for services.

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2. The director shall apply the standard means test annually and may make application of the test upon his own initiative or upon request of an interested party whenever evidence is offered tending to show that the current support status of any patient, resident or client is no longer proper. Any change of support status shall be retroactive to the date of application or request for review. If the persons responsible to pay under section 630.205 or 552.080 refuse to cooperate in providing information necessary to properly apply the test or if retroactive benefits are paid on behalf of the patient, resident or client, the charges may be retroactive to a date prior to the date of application or request for review. The decision of the director in determining the amount to be charged for services to a patient, resident or client shall be final. Appeals from the determination may be taken to the circuit court of Cole County or the county where the person responsible for payment resides in the manner provided by chapter 536.

3. The department shall not pay for services provided to a patient, resident or client who is not domiciled in Missouri unless the state is fully reimbursed for the services; except that the department may pay for services provided to a transient person for up to thirty days pending verification of his domiciliary state, and for services provided for up to thirty days in an emergency situation. The director shall promulgate rules for determination of the domiciliary state of any patient, resident or client receiving services from a facility, program or service operated or funded by the department.

4. Whenever a patient, resident or client is receiving services from a residential facility, day program or specialized service operated or funded by the department, and the state, county, municipality, parent, guardian or other person responsible for support of the patient, resident or client fails to pay any installment required to be paid for support, the department or the residential facility, day program or specialized service may discharge the patient, resident or client as provided by chapter 31. The patient, resident or client shall not be discharged under this subsection until the final disposition of any appeal filed under subsection 2 of this section.

5. The standard means test may be waived for a child in need of mental health services to avoid inappropriate custody transfers to the children's division. The department of mental health shall notify the child's parent or custodian that the standard means test may be waived. The department of mental health shall promulgate rules for waiving the standard means test. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

**630.335. CANTEENS AND COMMISSARIES AUTHORIZED — OPERATION.** — 1. With the approval of the director, the head of any of the department's mental health or [mental retardation] **developmental disability** facilities or regional centers may establish and operate a canteen or commissary for the use and benefit of patients, residents and employees.

2. Each facility or center shall keep revenues received from the canteen or commissary established and operated by the head of the facility in a separate account. The acquisition cost of goods sold and other expenses shall be paid from this account. A minimum amount of money necessary to meet cash flow needs and current operating expenses may be kept in this account. The remaining funds from sales of each commissary or canteen shall be deposited monthly in the state treasury to the credit of the mental health trust fund. The money in the fund shall be expended, upon appropriation, for the benefit of the patients in the improvement of the recreation, habilitation or treatment services or equipment of the facility or center from which derived. The provisions of section 33.080 to the contrary notwithstanding, the money in the mental health trust fund shall be retained for the purposes specified in this section and shall not revert or be transferred to general

revenue. The department of mental health shall keep accurate records of the source of money deposited in the mental health trust fund and shall allocate appropriations from the fund to the appropriate institution, facility or center.

**630.405. PURCHASE OF SERVICES, PROCEDURE — COMMISSIONER OF ADMINISTRATION TO COOPERATE — RULES, PROCEDURE.** — 1. The department may purchase services for patients, residents or clients from private and public vendors in this state with funds appropriated for this purpose.

2. Services that may be purchased may include prevention, diagnosis, evaluation, treatment, habilitation, rehabilitation, transportation and other special services for persons affected by mental disorders, mental illness, [mental retardation,] **intellectual disabilities**, developmental disabilities or alcohol or drug abuse.

3. The commissioner of administration, in consultation with the director, shall promulgate rules establishing procedures consistent with the usual state purchasing procedures pursuant to chapter 34 for the purchase of services pursuant to this section. The commissioner may authorize the department to purchase any technical service which, in his judgment, can best be purchased direct pursuant to chapter 34. The commissioner shall cooperate with the department to purchase timely services appropriate to the needs of the patients, residents or clients of the department.

4. The commissioner of administration may promulgate rules authorizing the department to review, suspend, terminate, or otherwise take remedial measures with respect to contracts with vendors as defined in subsection 1 of this section that fail to comply with the requirements of section 210.906.

5. The commissioner of administration may promulgate rules for a waiver of chapter 34 bidding procedures for the purchase of services for patients, residents and clients with funds appropriated for that purpose if, in the commissioner's judgment, such services can best be purchased directly by the department.

6. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536.

**630.425. INCENTIVE GRANTS AUTHORIZED — RULES AND REGULATIONS — DURATION OF GRANTS.** — 1. The department may make incentive grants from funds specifically appropriated for this purpose to private and public entities seeking to establish a residential facility, day program or specialized service for persons affected by mental disorders, mental illness, [mental retardation,] **intellectual disabilities**, developmental disabilities or alcohol or drug abuse in unserved, underserved or inappropriately served areas of the state.

2. The department shall promulgate rules establishing procedures for monitoring and auditing such grants.

3. The grants shall be of limited duration of one year and renewable for only one additional year if the funds are appropriated for this purpose.

**630.510. INVENTORY OF FACILITIES — PLAN FOR NEW FACILITIES.** — At least once every three years, the department shall conduct a complete statewide inventory of its existing facilities and a survey of needs for persons affected by mental disorders, mental illness, [mental retardation,] **intellectual disabilities**, developmental disabilities and alcohol or drug abuse, and shall make a public report of its inventory and survey and recommend a state plan for the construction of additional facilities.

**630.605. PLACEMENT PROGRAMS TO BE MAINTAINED.** — The department shall establish a placement program for persons affected by a mental disorder, mental illness, [mental retardation,] **intellectual disability**, developmental disability or alcohol or drug abuse. The

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department may utilize residential facilities, day programs and specialized services which are designed to maintain a person who is accepted in the placement program in the least restrictive environment in accordance with the person's individualized treatment, habilitation or rehabilitation plan. The department shall license, certify and fund, subject to appropriations, a continuum of facilities, programs and services short of admission to a department facility to accomplish this purpose.

**630.610. APPLICATIONS FOR PLACEMENT — CRITERIA TO BE CONSIDERED.** — 1. If the head of a facility operated by the department determines that placement out of the facility would be appropriate for any patient or resident, the head of the facility shall refer the patient or resident for placement according to the department's rules. If a patient or resident is accepted and placed under this chapter, then the patient or resident shall be considered as discharged as a patient or resident of the facility and reclassified as a client of the department.

2. Any person, his authorized representative, his parent, if the person is a minor, his guardian, a court of competent jurisdiction or a state or private facility or agency having custody of the person may apply for placement of the person under this chapter.

3. If the department finds the application to be appropriate after review, it shall provide for or arrange for a comprehensive evaluation, and the preparation of an individualized treatment, habilitation or rehabilitation plan of the person seeking to be placed, whether from a department facility or directly, to determine if he meets the following criteria:

(1) The person is affected by a mental disorder, mental illness, [mental retardation,] **intellectual disability**, developmental disability or alcohol or drug abuse; and

(2) The person is in need of special care, treatment, habilitation or rehabilitation services as described in this chapter, including room or board, or both; provided, however, that no person shall be accepted for placement if the sole reason for the application or referral is that residential placement is necessary for a school-aged child, as defined in chapter 162, to receive an appropriate special education.

**630.635. PROCEDURE WHEN CONSENT NOT GIVEN — REVIEW PANEL TO BE NAMED — NOTICE AND HEARING REQUIRED — APPEAL — EMERGENCY TRANSFERS MAY BE MADE.** —

1. If a resident in a [mental retardation] **developmental disability** facility, or his parent if he is a minor, or his legal guardian refuses to consent to the proposed placement, the head of the [mental retardation] **developmental disability** facility may petition, under the procedures in section 633.135, the director of the division of [mental retardation and] developmental disabilities to determine whether the proposed placement is appropriate under chapter 633.

2. If a patient in a mental health facility, or his parent if he is a minor, or his legal guardian refuses to consent to the proposed placement, the head of the mental health facility may petition the director of the division of comprehensive psychiatric services to determine whether the proposed placement is appropriate under sections 630.610, 630.615 and 630.620.

3. The director of the division of comprehensive psychiatric services shall refer the petition to the chairman of the state advisory council for his division who shall appoint and convene a review panel composed of three members. At least one member of the panel shall be a family member or guardian of a patient who resides in a mental health facility operated by the department. The remaining members of the panel shall be persons who are from nongovernmental organizations or groups concerned with the prevention of mental disorders, evaluation, care, treatment or rehabilitation of persons affected by the same conditions as the patient the department seeks to place and who are familiar with services and service needs of persons in mental health facilities operated by the department. No member of the panel shall be an officer or employee of the department.

4. After prompt notice and hearing, the panel shall determine whether the proposed placement is appropriate under sections 630.610, 630.615 and 630.620. The hearing shall be electronically recorded for purposes of obtaining a transcript. The council shall forward the tape recording, recommended findings of fact, conclusions of law, and decision to the director who shall enter findings of fact, conclusions of law, and the final decision. Notice of the director's decision shall be sent to the patient, or his parent if he is a minor, or his guardian by registered mail, return receipt requested. The director shall expedite this review in all respects.

5. If the patient, or his parent if he is a minor, or his guardian disagrees with the decision of the director, he may appeal the decision, within thirty days after notice of the decision is sent, to the circuit court of the county where the patient or resident, or his parent if he is a minor, or his guardian resides. The court shall review the record, proceedings and decision of the director not only under the provisions of chapter 536, but also as to whether or not the head of the facility or the department sustained its burden of proof that the proposed placement is appropriate under sections 630.110, 630.115 and 630.120. The court shall expedite this review in all respects. Notwithstanding the provisions of section 536.140, a court may, for good cause shown, hear and consider additional competent and material evidence.

6. The notice and procedure for the hearing by the panel shall be in accordance with chapter 536.

7. In all proceedings either before the panel or before the circuit court, the burden of proof shall be upon the head of the facility to demonstrate by a preponderance of evidence that the proposed placement is appropriate under the criteria set forth in sections 630.610, 630.615 and 630.120.

8. Pending the convening of the hearing panel and the final decision of the director or the court if the director's decision is appealed, the department shall not place or discharge the patient from a facility except that the department may temporarily transfer such patient in the case of a medical emergency.

9. There shall be no retaliation against any state employee as the result of a good faith decision to place the patient which is appealed and who testifies during a hearing or otherwise provides information or evidence in regard to a proposed placement.

**630.705. RULES FOR STANDARDS FOR FACILITIES AND PROGRAMS FOR PERSONS AFFECTED BY MENTAL DISORDER, MENTAL ILLNESS, OR DEVELOPMENTAL DISABILITY — CLASSIFICATION OF FACILITIES AND PROGRAMS — CERTAIN FACILITIES AND PROGRAMS NOT TO BE LICENSED.** — 1. The department shall promulgate rules setting forth reasonable standards for residential facilities and day programs for persons who are affected by a mental disorder, mental illness, [mental retardation] **intellectual disability**, or developmental disability.

2. The rules shall provide for the facilities and programs to be reasonably classified as to resident or client population, size, type of services or other reasonable classification. The department shall design the rules to promote and regulate safe, humane and adequate facilities and programs for the care, treatment, habilitation and rehabilitation of persons described in subsection 1 of this section.

3. The following residential facilities and day programs shall not be licensed by the department:

- (1) Any facility or program which relies solely upon the use of prayer or spiritual healing;
- (2) Any educational, special educational or vocational program operated, certified or approved by the state board of education pursuant to chapters 161, 162 and 178, and regulations promulgated by the board;
- (3) Any hospital, facility, program or entity operated by this state or the United States; except that facilities operated by the department shall meet these standards;
- (4) Any hospital, facility or other entity, excluding those with persons who are mentally retarded and developmentally disabled as defined in section 630.005 otherwise licensed by the

state and operating under such license and within the limits of such license, unless the majority of the persons served receive activities and services normally provided by a licensed facility pursuant to this chapter;

(5) Any hospital licensed by the department of social services as a psychiatric hospital pursuant to chapter 197;

(6) Any facility or program accredited by the Joint Commission on Accreditation of Hospitals, the American Osteopathic Association, Accreditation Council for Services for Mentally Retarded or other Developmentally Disabled Persons, Council on Accreditation of Services for Children and Families, Inc., or the Commission on Accreditation of Rehabilitation Facilities;

(7) Any facility or program caring for less than four persons whose care is not funded by the department.

**630.715. LICENSING OF RESIDENTIAL FACILITIES AND DAY PROGRAMS — FEE — AFFIDAVIT.** — 1. The department shall establish a procedure for the licensing of residential facilities and day programs for persons described in section 630.705, which procedure shall provide for the acceptance of a license, a temporary operating permit or a probationary license issued by the department of social services under sections 198.006 to 198.096 as regards the licensing requirements in the following areas:

- (1) General medical and health care;
- (2) Adequate physical plant facilities including fire safety, housekeeping and maintenance standards;
- (3) Food service facilities;
- (4) Safety precautions;
- (5) Drugs and medications;
- (6) Uniform system of record keeping;
- (7) Resident and client rights and grievance procedures.

However, the department shall require annually that any facilities and programs already licensed by the department of social services under chapter 198 which desire to provide services to persons diagnosed [as mentally disordered, mentally ill, mentally retarded or developmentally disabled] **with a mental disorder, mental illness, or developmental disability** in accordance with sections 630.705 to 630.760 meet the department's requirements in excess of those required for licensure or certification under chapter 198, which are appropriate to admission criteria and care, treatment, habilitation and rehabilitation needs of such persons.

2. Applications for licenses shall be made to the department upon forms provided by it and shall contain such information and documents as the department requires, including, but not limited to, affirmative evidence of ability to comply with the rules adopted by the department. Each application for a license, except applications from a governmental unit or a facility caring for less than four persons, which shall not pay any fee, shall be accompanied by a license fee of ten dollars for establishments which accept more than three but less than ten persons and fifty dollars from establishments which accept ten or more. The license fee shall be paid to the director of revenue for deposit to the general revenue fund of the state treasury.

3. An applicant for a license shall submit an affidavit under oath that all documents required by the department to be filed pursuant to this section are true and correct to the best of his knowledge and belief, that the statements contained in the application are true and correct to the best of his knowledge and belief and that all required documents are either included with the application or are currently on file with the department.

**630.735. LICENSE REQUIRED.** — 1. No person or governmental unit, acting separately or jointly with any other person or governmental unit, shall establish, conduct or maintain any residential facility in this state for the care, treatment, habilitation or rehabilitation of [mentally

retarded or developmentally disabled] persons **with an intellectual disability or a developmental disability** without a valid license issued by the department. Licenses in effect on August 13, 1982, shall continue in effect until they regularly expire unless sooner revoked; except that in no case shall a license continue in effect beyond one year after August 13, 1982.

2. After October 1, 1983, no person or governmental unit, acting separately or jointly with any other person or governmental unit, shall establish, conduct or maintain any residential facility or day program in this state for care, treatment, habilitation or rehabilitation of persons diagnosed [as mentally disordered or mentally ill] **with a mental disorder or mental illness** or day program for [mentally retarded or developmentally disabled] persons **with an intellectual disability or a developmental disability** unless the facilities or programs are licensed by the department.

**632.005. DEFINITIONS.** — As used in chapter 631 and this chapter, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Comprehensive psychiatric services", any one, or any combination of two or more, of the following services to persons affected by mental disorders other than [mental retardation or] **intellectual disabilities** or developmental disabilities: inpatient, outpatient, day program or other partial hospitalization, emergency, diagnostic, treatment, liaison, follow-up, consultation, education, rehabilitation, prevention, screening, transitional living, medical prevention and treatment for alcohol abuse, and medical prevention and treatment for drug abuse;

(2) "Council", the Missouri advisory council for comprehensive psychiatric services;

(3) "Court", the court which has jurisdiction over the respondent or patient;

(4) "Division", the division of comprehensive psychiatric services of the department of mental health;

(5) "Division director", director of the division of comprehensive psychiatric services of the department of mental health, or his designee;

(6) "Head of mental health facility", superintendent or other chief administrative officer of a mental health facility, or his designee;

(7) "Judicial day", any Monday, Tuesday, Wednesday, Thursday or Friday when the court is open for business, but excluding Saturdays, Sundays and legal holidays;

(8) "Licensed physician", a physician licensed pursuant to the provisions of chapter 334 or a person authorized to practice medicine in this state pursuant to the provisions of section 334.150;

(9) "Licensed professional counselor", a person licensed as a professional counselor under chapter 337 and with a minimum of one year training or experience in providing psychiatric care, treatment, or services in a psychiatric setting to individuals suffering from a mental disorder;

(10) "Likelihood of serious harm" means any one or more of the following but does not require actual physical injury to have occurred:

(a) A substantial risk that serious physical harm will be inflicted by a person upon his own person, as evidenced by recent threats, including verbal threats, or attempts to commit suicide or inflict physical harm on himself. Evidence of substantial risk may also include information about patterns of behavior that historically have resulted in serious harm previously being inflicted by a person upon himself;

(b) A substantial risk that serious physical harm to a person will result or is occurring because of an impairment in his capacity to make decisions with respect to his hospitalization and need for treatment as evidenced by his current mental disorder or mental illness which results in an inability to provide for his own basic necessities of food, clothing, shelter, safety or medical care or his inability to provide for his own mental health care which may result in a substantial risk of serious physical harm. Evidence of that substantial risk may also include information about patterns of behavior that historically have resulted in serious harm to the person previously taking place because of a mental disorder or mental illness which resulted in his inability to provide for his basic necessities of food, clothing, shelter, safety or medical or mental health care; or



(c) A substantial risk that serious physical harm will be inflicted by a person upon another as evidenced by recent overt acts, behavior or threats, including verbal threats, which have caused such harm or which would place a reasonable person in reasonable fear of sustaining such harm. Evidence of that substantial risk may also include information about patterns of behavior that historically have resulted in physical harm previously being inflicted by a person upon another person;

(11) "Mental health coordinator", a mental health professional who has knowledge of the laws relating to hospital admissions and civil commitment and who is authorized by the director of the department, or his designee, to serve a designated geographic area or mental health facility and who has the powers, duties and responsibilities provided in this chapter;

(12) "Mental health facility", any residential facility, public or private, or any public or private hospital, which can provide evaluation, treatment and, inpatient care to persons suffering from a mental disorder or mental illness and which is recognized as such by the department or any outpatient treatment program certified by the department of mental health. No correctional institution or facility, jail, regional center or [mental retardation] **developmental disability** facility shall be a mental health facility within the meaning of this chapter;

(13) "Mental health professional", a psychiatrist, resident in psychiatry, psychologist, psychiatric nurse, licensed professional counselor, or psychiatric social worker;

(14) "Mental health program", any public or private residential facility, public or private hospital, public or private specialized service or public or private day program that can provide care, treatment, rehabilitation or services, either through its own staff or through contracted providers, in an inpatient or outpatient setting to persons with a mental disorder or mental illness or with a diagnosis of alcohol abuse or drug abuse which is recognized as such by the department. No correctional institution or facility or jail may be a mental health program within the meaning of this chapter;

(15) "Ninety-six hours" shall be construed and computed to exclude Saturdays, Sundays and legal holidays which are observed either by the court or by the mental health facility where the respondent is detained;

(16) "Peace officer", a sheriff, deputy sheriff, county or municipal police officer or highway patrolman;

(17) "Psychiatric nurse", a registered professional nurse who is licensed under chapter 335 and who has had at least two years of experience as a registered professional nurse in providing psychiatric nursing treatment to individuals suffering from mental disorders;

(18) "Psychiatric social worker", a person with a master's or further advanced degree from an accredited school of social work, practicing pursuant to chapter 337, and with a minimum of one year training or experience in providing psychiatric care, treatment or services in a psychiatric setting to individuals suffering from a mental disorder;

(19) "Psychiatrist", a licensed physician who in addition has successfully completed a training program in psychiatry approved by the American Medical Association, the American Osteopathic Association or other training program certified as equivalent by the department;

(20) "Psychologist", a person licensed to practice psychology under chapter 337 with a minimum of one year training or experience in providing treatment or services to mentally disordered or mentally ill individuals;

(21) "Resident in psychiatry", a licensed physician who is in a training program in psychiatry approved by the American Medical Association, the American Osteopathic Association or other training program certified as equivalent by the department;

(22) "Respondent", an individual against whom involuntary civil detention proceedings are instituted pursuant to this chapter;

(23) "Treatment", any effort to accomplish a significant change in the mental or emotional conditions or the behavior of the patient consistent with generally recognized principles or standards in the mental health professions.

**632.105. ADULTS TO BE ACCEPTED FOR EVALUATION, WHEN, BY WHOM — MAY THEN BE ADMITTED TO MENTAL HEALTH FACILITY — CONSENT REQUIRED.** — 1. The head of a private mental health facility may, and the head of a department mental health facility shall, except in the case of a medical emergency and subject to the availability of suitable programs and accommodations, accept for evaluation, on an outpatient basis if practicable, any person eighteen years of age or over who applies for his admission. The department may require that a community-based service where the person resides perform the evaluation pursuant to an affiliation agreement and contract with the department.

2. If a person is diagnosed as having a mental disorder, other than [mental retardation] **an intellectual disability** or developmental disability without another accompanying mental disorder, and is determined to be in need of inpatient treatment, the person may be admitted by a private mental health facility and shall be admitted by a department mental health facility, if suitable accommodations are available, for care and treatment as an inpatient for such periods and under such conditions as authorized by law. The department may require that a community-based service where the patient resides admit the person for inpatient care and treatment pursuant to an affiliation agreement and contract with the department.

3. A person who is admitted under this section is a voluntary patient and shall have the right to consent to evaluation, care, treatment and rehabilitation and shall not be medicated without his prior voluntary and informed consent; except that medication may be given in emergency situations.

**632.110. MINORS TO BE ACCEPTED FOR EVALUATION, WHEN, BY WHOM — MAY THEN BE ADMITTED TO MENTAL HEALTH FACILITY — PARENT OR GUARDIAN TO CONSENT — PEACE OFFICER MAY TRANSPORT TO FACILITY, WHEN.** — 1. The head of a private mental health facility may, and the head of a department mental health facility shall, except in the case of a medical emergency and subject to the availability of suitable programs and accommodations, accept for evaluation, on an outpatient basis if practicable, any minor for whom an application for voluntary admission is made by his parent or other legal custodian. The department may require that a community-based service where the minor resides perform the evaluation pursuant to an affiliation agreement or contract with the department.

2. If the minor is diagnosed as having a mental disorder, other than [mental retardation] **an intellectual disability** or developmental disability without another accompanying mental disorder, and found suitable for inpatient treatment as a result of the evaluation, the minor may be admitted by a private mental health facility or shall be admitted by a department mental health facility, if suitable accommodations are available, for care, treatment and rehabilitation as an inpatient for such periods and under such conditions as authorized by law. The department may require that a community-based service where the patient resides admit the person for inpatient care, treatment and rehabilitation pursuant to an affiliation agreement and contract with the department.

3. The parent or legal custodian who applied for the admission of the minor shall have the right to authorize his evaluation, care, treatment and rehabilitation and the right to refuse permission to medicate the minor; except that medication may be given in emergency situations.

4. The parent or legal custodian may request a peace officer to take a minor into custody and transport him to the mental health facility for evaluation if the parent or legal custodian applies for such evaluation under subsection 1 of this section.

**632.115. JUVENILES TO BE ADMITTED BY HEADS OF FACILITIES WHEN COMMITTED.** — The head of a private mental health facility may, and the head of a public mental health facility shall, except in the case of medical emergency and subject to the availability of suitable programs and accommodations, admit any minor who has symptoms of mental disorder other than [mental retardation] **an intellectual disability** or developmental disability, who is under the jurisdiction of

a juvenile court and who is committed to a facility not operated by the state of Missouri under section 211.181 or to the custody of the director pursuant to sections 211.201 to 211.207 for assignment by the director to an appropriate facility.

**632.120. INCOMPETENTS TO BE ACCEPTED BY HEADS OF FACILITIES UPON APPLICATION — DURATION OF ADMISSION FOR EVALUATION — CONSENT MAY BE AUTHORIZED.** — 1. The head of a private mental health facility may, and the head of a department facility shall, except in the case of a medical emergency and subject to the availability of suitable programs and accommodations, accept for evaluation and treatment, on an outpatient basis if practicable, any person who has been declared incapacitated by a court of competent jurisdiction and for whom an application for voluntary admission is made by his guardian. The department may require that a community-based service where the person resides perform the evaluation pursuant to an affiliation agreement and contract with the department.

2. If the person is diagnosed as having a mental disorder, other than [mental retardation or] developmental disability without another accompanying mental disorder, and the person is found suitable for inpatient treatment as a result of the evaluation, the person may be admitted by a private mental health facility or shall be admitted by a public mental health facility, if suitable accommodations are available, for care, treatment and rehabilitation as an inpatient for up to thirty days after admission for evaluation and treatment.

3. If further inpatient services are recommended, the person may remain in the facility only if his guardian is authorized by the court to continue the inpatient hospitalization. The court may authorize the guardian to consent to evaluation, care, treatment, including medication, and rehabilitation on an inpatient basis.

**632.370. TRANSFER OF PATIENT BY DEPARTMENT — HEARING ON TRANSFER OF MINOR TO ADULT WARD — CONSENT REQUIRED — NOTICE TO BE GIVEN — CONSIDERATIONS — TRANSFER TO FEDERAL FACILITY, NOTICE, RESTRICTIONS.** — 1. The department may transfer, or authorize the transfer of, an involuntary patient detained under this chapter, chapter 211, chapter 475, or chapter 552 from one mental health program to another if the department determines that it would be consistent with the medical needs of the patient to do so. If a minor is transferred from a ward for minors to an adult ward, the department shall conduct a due process hearing within six days of such transfer during which hearing the head of the program shall have the burden to show that the transfer is appropriate for the medical needs of the minor. Whenever a patient is transferred, written notice thereof shall be given after obtaining the consent of the patient, his parent if he is a minor or his legal guardian to his legal guardian, parents and spouse, or, if none be known, his nearest known relative or friend. In all such transfers, due consideration shall be given to the relationship of the patient to his family, legal guardian or friends, so as to maintain relationships and encourage visits beneficial to the patient. The head of the mental health program shall notify the court ordering detention or commitment, the patient's last known attorney of record and the mental health coordinator for the region, and if the person was committed pursuant to chapter 552, to the prosecuting attorney of the jurisdiction where the person was tried and acquitted, of any transfer from one mental health facility to another. The prosecutor of the jurisdiction where the person was tried and acquitted shall use their best efforts to notify the victims of dangerous felonies. Notification by the appropriate person or agency by certified mail to the most current address provided by the victim shall constitute compliance with the victim notification requirement of this section. In the case of a patient committed under chapter 211, the court, on its own motion, may hold a hearing on the transfer to determine whether such transfer is appropriate to the medical needs of the patient.

2. Upon receipt of a certificate of an agency of the United States that facilities are available for the care or treatment of any individual heretofore ordered involuntarily detained, treated and evaluated pursuant to this chapter in any facility for the care or treatment of [the mentally ill,

mentally retarded or developmentally disabled] **persons with a mental illness or an intellectual disability or a developmental disability** and that such individual is eligible for care or treatment in a hospital or institution of such agency, the department may cause his transfer to such agency of the United States for hospitalization. Upon effecting any such transfer, the court ordering hospitalization, the legal guardian, spouse and parents, or, if none be known, his nearest known relative or friend shall be notified thereof immediately by the department. No person shall be transferred to an agency of the United States if he is confined pursuant to a conviction for any felony or misdemeanor or if he has been acquitted of any felony or misdemeanor solely on the ground of mental illness, unless prior to transfer the court originally ordering confinement of such person enters an order for the transfer after appropriate motion and hearing. Any person transferred to an agency of the United States shall be deemed to be hospitalized by such agency pursuant to the original order of hospitalization.

**632.380. PROVISIONS OF CHAPTER NOT TO APPLY TO CERTAIN PERSONS.** — Persons [who are mentally retarded, developmentally disabled,] **with an intellectual disability or a developmental disability or who are** senile or impaired by alcoholism or drug abuse shall not be detained judicially under this chapter, unless they are also mentally ill and as a result present likelihood of serious harm to themselves or to others. Such persons may, however, be committed upon court order under this chapter and the provisions of chapter 475 relating to incapacitated persons, pursuant to chapter 211 relating to juveniles, or may be admitted as voluntary patients under section 632.105 or 632.120.

**633.005. DEFINITIONS.** — As used in this chapter, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Comprehensive evaluation", a study, including a sequence of observations and examinations, of an individual leading to conclusions and recommendations formulated jointly by an interdisciplinary team of persons with special training and experience in the diagnosis and habilitation of [the mentally retarded and developmentally disabled] **a person with an intellectual disability or a developmental disability;**

(2) "Division", the division of [mental retardation and] developmental disabilities of the department of mental health;

(3) "Division director", the director of the division of [mental retardation and] developmental disabilities of the department of mental health, or his designee;

(4) "Group home", a residential facility serving nine or fewer residents, similar in appearance to a single-family dwelling and providing basic health supervision, habilitation training in skills of daily and independent living and community integration, and social support. Group homes do not include a family living arrangement or individualized supported living;

(5) "[Mental retardation] **Developmental disability** facility", a private or department facility, other than a regional center, which admits persons [who are mentally retarded or developmentally disabled] **with an intellectual disability or a developmental disability** for residential habilitation and other services and which is qualified or licensed as such by the department pursuant to chapter 630. Such terms shall include, but shall not be limited to, habilitation centers and private or public residential facilities for persons [who are developmentally disabled] **with an intellectual disability or a developmental disability;**

(6) "Regional center", an entity so designated by the department to provide, directly or indirectly, for comprehensive [mental retardation and] developmental disability services under this chapter in a particular region;

(7) "Respite care", temporary and short-term residential care, sustenance and supervision of a [mentally retarded or developmentally disabled] person **with an intellectual disability or a developmental disability** who otherwise resides in a family home;

(8) "State advisory council", the Missouri [advisory council on mental retardation and] developmental disabilities **council** as created in section 633.020.

**633.010. RESPONSIBILITIES, POWERS, FUNCTIONS AND DUTIES OF DIVISION.** — 1. The division of [mental retardation and] developmental disabilities, created by the omnibus reorganization act of 1974, section 9, appendix B, RSMo, shall be a division of the department. The division shall have the responsibility of insuring that [mental retardation] **intellectual disabilities** and developmental disabilities prevention, evaluation, care, habilitation and rehabilitation services are accessible, wherever possible. The division shall have and exercise supervision of division residential facilities, day programs and other specialized services operated by the department, and oversight over facilities, programs and services funded or licensed by the department.

2. The powers, functions and duties of the division shall include the following:

(1) Provision of funds for the planning and implementation of accessible programs to serve persons affected by [mental retardation or] **intellectual disabilities and** developmental disabilities;

(2) Review of [mental retardation and] developmental disabilities plans submitted to receive state and federal funds allocated by the department;

(3) Provision of technical assistance and training to community-based programs to assist in the planning and implementation of quality services;

(4) Assurance of program quality in compliance with such appropriate standards as may be established by the department;

(5) Sponsorship and encouragement of research into the causes, effects, prevention, habilitation and rehabilitation of [mental retardation and] **intellectual disabilities and** developmental disabilities;

(6) Provision of public information relating to [mental retardation and] developmental disabilities and their habilitation;

(7) Cooperation with nonstate governmental agencies and the private sector in establishing, conducting, integrating and coordinating [mental retardation and] developmental disabilities programs and projects;

(8) Cooperation with other state agencies to encourage appropriate health facilities to serve, without discrimination, persons [who are mentally retarded or developmentally disabled] **with an intellectual disability or a developmental disability** who require medical care and to provide them with adequate and appropriate services;

(9) Participation in developing and implementing a statewide plan to alleviate problems relating to [mental retardation and] developmental disabilities and to overcome the barriers to their solutions;

(10) Encouragement of coordination of division services with other divisions of the department and other state agencies;

(11) Encouragement of the utilization, support, assistance and dedication of volunteers to assist persons affected by [mental retardation and] **intellectual disabilities or** developmental disabilities to be accepted and integrated into normal community activities;

(12) Evaluation, or the requirement of the evaluation, including the collection of appropriate necessary information, of [mental retardation or] developmental disabilities programs to determine their cost-and-benefit effectiveness;

(13) Participation in developing standards for residential facilities, day programs and specialized services operated, funded or licensed by the department for persons affected by [mental retardation or] developmental disabilities.

**633.020. ADVISORY COUNCIL ON DEVELOPMENTAL DISABILITIES — MEMBERS, NUMBER, TERMS, QUALIFICATIONS, APPOINTMENT — ORGANIZATION, MEETINGS — DUTIES.**

— 1. The "Missouri [Advisory Council on Mental Retardation and] Developmental Disabilities **Council**", consisting of up to twenty-five members, the number to be determined under the council bylaws, is hereby created to advise the division and the division director.

2. The members of the Missouri planning council for developmental disabilities, created by executive order of the governor on October 26, 1979, for the remainder of their appointed terms, and up to five persons to be appointed by the director, for staggered terms of three years each, shall act as such advisory body. At the expiration of the term of each member, the director shall appoint an individual who shall hold office for a term of three years. At least one-half of the members shall be consumers. Other members shall have professional, research or personal interest in [mental retardation] **intellectual disabilities** and developmental disabilities. At least one member shall be a manager of or a member of the board of directors of a sheltered workshop as defined in section 178.900. No more than one-fourth of the members shall be vendors or members of boards of directors, employees or officers of vendors, or any of their spouses, if such vendors receive more than fifteen hundred dollars under contract with the department; except that members of boards of directors of not-for-profit corporations shall not be considered members of board of directors of vendors under this subsection.

3. Meetings shall be held at least every ninety days or at the call of the division director or the council chairman, who shall be elected by the council.

4. Each member shall be reimbursed for reasonable and necessary expenses, including travel expenses, pursuant to department travel regulations, actually incurred in the performance of his official duties.

5. The council may be divided into subcouncils in accordance with its bylaws.

6. The council shall collaborate with the department in developing and administering a state plan for [mental retardation and] **intellectual disabilities and** developmental disabilities services.

7. No member of a state advisory council may participate in or seek to influence a decision or vote of the council if the member would be directly involved with the matter or if he would derive income from it. A violation of the prohibition contained herein shall be grounds for a person to be removed as a member of the council by the director.

8. The council shall be advisory and shall:

(1) Promote meetings and programs for the discussion of reducing the debilitating effects of [mental retardation and] **intellectual disabilities and** developmental disabilities and disseminate information in cooperation with any other department, agency or entity on the prevention, evaluation, care, treatment and habilitation for persons affected by [mental retardation or] **intellectual disabilities and** developmental disabilities;

(2) Study and review current prevention, evaluation, care, treatment and rehabilitation technologies and recommend appropriate preparation, training, retraining and distribution of manpower and resources in the provision of services to [mentally retarded or developmentally disabled] persons **with an intellectual disability or a developmental disability** through private and public residential facilities, day programs and other specialized services;

(3) Recommend what specific methods, means and procedures should be adopted to improve and upgrade the department's [mental retardation and] **intellectual disabilities and** developmental disabilities service delivery system for citizens of this state;

(4) Participate in developing and disseminating criteria and standards to qualify mental retardation or developmental disability residential facilities, day programs and other specialized services in this state for funding or licensing, or both, by the department.

**633.029. DEFINITION TO DETERMINE STATUS OF ELIGIBILITY.** — All persons determined eligible for services provided by the division of [mental retardation and] developmental disabilities

prior to January 1, 1991, shall be eligible for services on the basis of their earlier determination of eligibility without regard to their eligibility status under the definition of developmental disability contained in section 630.005.

**633.030. DEPARTMENT TO DEVELOP STATE PLAN, CONTENTS.** — 1. The department shall prepare a state plan to secure coordinated [mental retardation and] **intellectual disabilities and** developmental disabilities habilitation services accessible to persons in need of them in defined geographic areas, which plan shall be reviewed and revised annually.

2. The state plan shall include, but not be limited to, the following:

(1) A needs-assessment of the state to determine underserved, unserved and inappropriately served populations and areas;

(2) Statements of short-term and long-term goals for meeting the needs of currently served, underserved, unserved or inappropriately served populations and areas of the state;

(3) An inventory of existing private and public residential facilities, day programs and other service providers offering [mental retardation or] **intellectual disability or** developmental disability evaluation and habilitation services;

(4) Evaluations of the effects of habilitation programs;

(5) Descriptions of the following:

(a) Methods for assuring active consumer-oriented citizen participation throughout the system;

(b) Strategies and procedures for encouraging, coordinating and integrating community-based services, wherever practicable, to avoid duplication by private, not-for-profit and public state and community-based providers of services;

(c) Methods for monitoring the quality of evaluation and habilitation services funded by the state;

(d) Rules which set standards for construction, staffing, operations and programs, as appropriate, for any public or private entity to meet for receiving state licensing, certification or funding; and

(e) Plans for addressing the particular [mental retardation and] **intellectual disability or** developmental disability service needs of each region, including special strategies for rural and urban unserved, underserved or inappropriately served populations in areas of the state.

3. In preparing the state plan, the department shall take into consideration its regional plans.

**633.045. DUTIES OF REGIONAL ADVISORY COUNCILS — PLANS.** — 1. Any regional advisory councils established under section 633.040 shall participate in the preparation of regional plans and annually review, advise on and recommend them before they are transmitted to the state advisory council and the division director. The plans shall include at least the following:

(1) An inventory of existing residential facilities, day programs and specialized services for [the mentally retarded and developmentally disabled] **persons with an intellectual disability or a developmental disability**;

(2) An assessment of needs, including any special target populations, of unserved, underserved or inappropriately served persons;

(3) A statement of specific goals for the region.

2. Any staff of such regional advisory councils shall be provided only from funds appropriated specifically for that purpose. This subsection shall become effective July 1, 1981.

**633.050. REGIONAL COUNCILS TO REVIEW, ADVISE AND RECOMMEND — DUTIES.** — 1. In addition to such other advisory functions as may be agreed upon with the division, the regional advisory councils shall review and advise on programs and policies of the regional centers. The councils shall review, advise on, and recommend regional program budgets and shall report to the

division director their findings as to their conformity with the regional plans before they are transmitted to the department to be considered for inclusion in the department budget request.

2. The regional councils may advise the department, the division and the regional centers on methods of operation and service delivery which will assure comprehensive services with the minimum amount of duplication, fragmentation and unnecessary expenditures. In making such proposals, the councils shall consider the most appropriate use of existing agencies and professional personnel providing residential facilities, day programs and other specialized services for [the mentally retarded and developmentally disabled] **persons with an intellectual disability or developmental disability** in their regions.

3. The duties of the regional advisory councils shall include:

- (1) Determining the disbursement of the cash stipend as established in section 633.180 and the family support loan as established in section 633.185;
- (2) Providing direction and assistance to the regional center in the development of a family support plan based upon the needs in the region;
- (3) Approval of the regional family support plan;
- (4) Monitoring the implementation of the family support plan;
- (5) Providing an annual written report to the department of mental health regarding the activities of the family support council.

**633.110. WHAT SERVICES MAY BE PROVIDED — CONSENT REQUIRED, WHEN.** — 1. Any person suspected to [be mentally retarded or developmentally disabled] **have an intellectual disability or developmental disability** shall be eligible for initial diagnostic and counseling services through the regional centers.

2. If it is determined by a regional center through a comprehensive evaluation that a person [is mentally retarded or developmentally disabled] **has an intellectual disability or a developmental disability** so as to require the provision of services, and if such person, such person's parent, if the person is a minor, or legal guardian, requests that he be registered as a client of a regional center, the regional center shall, within the limits of available resources, secure a comprehensive program of any necessary services for such person. Such services may include, but need not be limited to, the following:

- (1) Diagnosis and evaluation;
- (2) Counseling;
- (3) Respite care;
- (4) Recreation;
- (5) Habilitation;
- (6) Training;
- (7) Vocational habilitation;
- (8) Residential care;
- (9) Homemaker services;
- (10) Developmental day care;
- (11) Sheltered workshops;
- (12) Referral to appropriate services;
- (13) Placement;
- (14) Transportation.

3. In securing the comprehensive program of services, the regional centers shall involve the client, his family or his legal guardian in decisions affecting his care, habilitation, placement or referral. Nothing in this chapter shall be construed as authorizing the care, treatment, habilitation, referral or placement of any [mentally retarded or developmentally disabled] person **with an intellectual disability or developmental disability** to any residential facility, day program or other specialized service without the written consent of the client, his parent, if he is a minor, or his

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legal guardian, unless such care, treatment, habilitation, referral, or placement is authorized pursuant to an order of the court under the provisions of chapter 475.

**633.115. ENTITIES TO BE USED BY REGIONAL CENTERS.** — The regional center shall secure services for its clients in the least restrictive environment consistent with individualized habilitation plans. As a result of its comprehensive evaluation, the regional center shall utilize the following entities to secure services:

(1) Agencies serving persons not diagnosed [as mentally retarded or developmentally disabled] **with an intellectual disability or developmental disability** in which the client would be eligible to receive available services or in which the services could be made available to the client through the purchase of assistive or supportive services;

(2) Agencies serving [mentally retarded or developmentally disabled] persons **with an intellectual disability or developmental disability** in which the client would be eligible to receive available services or in which services could be made available to the client through the purchase of assistive or supportive services;

(3) The regional center on a day-program basis;

(4) The regional center for short-term residential services, not to exceed six months, unless expressly authorized for a longer period by the division director;

(5) A residential facility licensed through the department placement program, but not operated by the department;

(6) A [mental retardation] **developmental disability** facility operated by the department for clients who are [developmentally disabled or mentally retarded] **persons with an intellectual disability or developmental disability**.

**633.120. REFERRAL FOR ADMISSION TO FACILITY, WHEN — ADMISSION OR REJECTION, APPEAL — CONSENT.** — 1. A regional center may refer a client for admission to a [mental retardation] **developmental disability** facility only if determined by a comprehensive evaluation that:

(1) The person has a developmental disability;

(2) Protective services are required to guarantee the health, safety or mental well-being of the person;

(3) Placement in a [mental retardation] **developmental disability** facility is in the best interests of the person; and

(4) All other less restrictive services, including but not limited to family support and supported living, have been explored and found inadequate to prevent placement in a [mental retardation] **developmental disability** facility.

2. The regional center shall forward its comprehensive evaluation containing the determination under subsection 1 of this section and such other records as are necessary to enable the [mental retardation] **developmental disability** facility to determine whether to accept or reject the referral.

3. The head of a private [mental retardation] **developmental disability** facility may, and the head of a department [mental retardation] **developmental disability** facility shall, admit the person if, as a result of reviewing the evaluation, the head of the [mental retardation] **developmental disability** facility determines that the client is appropriate for admission as a resident and suitable accommodations are available. If the head of a department [mental retardation] **developmental disability** facility rejects the referral, the regional center may appeal the rejection to the division director. After consulting with the head of the referring regional center and the head of the department [mental retardation] **developmental disability** facility, the division director shall determine the appropriate disposition of the client.

4. The person to be admitted, if competent, his parent or legal custodian, if he is a minor, or his guardian, as authorized by a court, shall consent to the admission unless otherwise ordered by a court.

5. The head of a [mental retardation] **developmental disability** facility shall have an individualized habilitation plan for each resident within thirty days of the resident's admission. Such plan shall include a statement regarding the resident's anticipated length of stay in the facility and the feasibility of least restrictive alternatives.

6. If procedures are initiated under chapter 475 for the appointment of a guardian for a resident of a department [mental retardation] **developmental disability** facility, the referral procedure under this section shall not apply.

**633.125. DISCHARGE FROM FACILITY, WHEN — MAY BE DENIED, PROCEDURE THEREAFTER — REFERRAL TO REGIONAL CENTER FOR PLACEMENT, WHEN.** — 1. A resident admitted to a [mental retardation] **developmental disability** facility pursuant to section 633.120 shall be discharged immediately when the person who applied for his admission requests the release orally, in writing or otherwise from the head of the [mental retardation] **developmental disability** facility; except, that if the head of the [mental retardation] **developmental disability** facility regards the resident as presenting a likelihood of serious harm to himself or others, the head of the facility may initiate involuntary detention procedures pursuant to chapter 632, if appropriate, or any individual, including the head of the facility or the mental health coordinator may initiate guardianship proceedings and, if appropriate, obtain an emergency commitment order pursuant to chapter 475.

2. A resident shall be discharged from a department [mental retardation] **developmental disability** facility if it is determined in a comprehensive evaluation or periodic review that the person is not [mentally retarded or] **intellectually disabled or** developmentally disabled, and if the resident, parent, if a minor, or guardian consents to the discharge. If consent is not obtained, the head of the facility shall initiate appeal proceedings under section 633.135, before a resident can be discharged.

3. A resident shall either be discharged from a department [mental retardation] **developmental disability** facility or shall be referred to a regional center for placement in a least restrictive environment pursuant to section 630.610, if it is determined in a comprehensive evaluation or periodic review that the following criteria exist:

(1) The resident's condition is not of such a nature that for the protection or adequate care of the resident or others the resident needs department residential habilitation or other services;

(2) The [mental retardation] **developmental disability** facility does not offer a program which best meets the resident's needs; or

(3) The [mental retardation] **developmental disability** facility does not provide the least restrictive environment feasible. A resident may not be discharged without his consent or the consent of his parent, if he is a minor, or guardian unless proceedings have been completed under section 633.135.

4. After a resident's discharge pursuant to subsection 3 of this section, the resident shall be referred to an appropriate regional center for assistance in obtaining any necessary services.

**633.130. EVALUATION OF RESIDENTS REQUIRED — DISCHARGE THEREAFTER.** — 1. At least once every one hundred eighty days, the head of each [mental retardation] **developmental disability** facility shall cause the condition and status of each resident to be reviewed and evaluated for the purpose of determining whether the resident needs further residential habilitation, placement in the least restrictive environment or discharge.

2. The head of the facility shall initiate proceedings to discharge any resident whose continued residential habilitation is no longer appropriate; except, that the head of the facility may refer the resident to the appropriate regional center for placement pursuant to section 630.610.

3. A copy of the evaluation and individualized habilitation plan shall be sent to any court having jurisdiction over the resident.

**633.135. REFUSAL OF CONSENT FOR PLACEMENT OR DISCHARGE, EFFECT — PROCEDURE — DEPARTMENT DIRECTOR TO MAKE FINAL DETERMINATION — APPEAL, PROCEDURE — BURDEN OF PROOF.** — 1. If a resident, or his parent if he is a minor, or his legal guardian refuses to consent to the proposed placement or to discharge from the facility, the head of the [mental retardation] **developmental disability** facility may petition the director of the division to determine whether the proposed placement is appropriate under sections 630.610, 630.615 and 630.620 or whether the proposed discharge is appropriate under sections 633.120, 633.125 and 633.130.

2. The division director shall refer the petition to the chairman of the state advisory council who shall appoint and convene a review panel composed of three members. At least one member of the panel shall be a parent or guardian of a resident who resides in a department [mental retardation] **developmental disability** facility. The remaining members of the panel shall be persons who are from nongovernmental organizations or groups concerned with the prevention of [mental retardation] **intellectual disability or developmental disability**, evaluation, care and habilitation of [mentally retarded] **intellectually disabled or developmentally disabled** persons and who are familiar with services and service needs of [mentally retarded] **intellectually disabled or developmentally disabled** persons in facilities operated by the department. No member of the panel shall be an officer or employee of the department.

3. After prompt notice and hearing, the panel shall determine whether the proposed placement is appropriate under sections 630.610, 630.615 and 630.620 or whether the proposed discharge is appropriate under sections 633.120, 633.125 and 633.130. The hearing shall be electronically recorded for purposes of obtaining a transcript. The council shall forward the tape recording, recommended findings of fact, conclusions of law and decision to the director who shall enter findings of fact, conclusions of law and the final decision. Notice of the director's decision shall be sent to the resident, or his parent if he is a minor, or his guardian, by registered mail, return receipt requested. The director shall expedite this review in all respects.

4. If the resident, or his parent if he is a minor, or his guardian disagrees with the decision of the director, he may appeal the decision, within thirty days after notice of the decision is sent, to the circuit court of the county where the resident, or his parent if he is a minor, or his guardian resides. The court shall review the record, proceedings and decision of the director not only under the provisions of chapter 536, but also as to whether or not the head of the facility sustained his burden of proof that the proposed placement is appropriate under sections 630.110, 630.115 and 630.120, or the proposed discharge is appropriate under sections 633.120, 633.125 and 633.130. The court shall expedite this review in all respects. Notwithstanding the provisions of section 536.140, a court may, for good cause shown, hear and consider additional competent and material evidence.

5. Any resident of a [mental retardation] **developmental disability** facility who is age eighteen or older and who does not have a legal guardian shall not be discharged unless probate division of the circuit court approval is obtained to confirm that the resident is not in need of the care, treatment or programs now being received in the [mental retardation] **developmental disability** facility.

6. The notice and procedure for the hearing by the panel shall be in accordance with chapter 536.

7. In all proceedings either before the panel or before the circuit court, the burden of proof shall be upon the head of the facility to demonstrate by preponderance of evidence that the

proposed placement is appropriate under the criteria set forth in sections 630.610, 630.615, and 630.120, or that the proposed discharge is appropriate under the criteria set forth in sections 633.120, 633.125 and 633.130.

8. Pending a convening of the hearing panel and the final decision of the director or the court, if the director's decision is appealed, the department shall not place or discharge the resident from a facility except that the department may temporarily transfer such resident in the case of a medical emergency.

9. There shall be no disciplinary action against any state employee who in good faith testifies or otherwise provides information or evidence in regard to a proposed placement or discharge.

**633.140. RETURN OF ABSENTEE, PROCEDURE.** — 1. If any resident leaves a [mental retardation] **developmental disability** facility without authorization, the sheriff of the county where the resident is found shall apprehend and return him to the center if requested to do so by the head of the facility.

2. The head of the facility may request the return of an absent resident pursuant to subsection 1 of this section only when one of the following circumstances exists:

(1) The resident is a minor whose admission was applied for by his parent or legal custodian, and such parent or guardian has not requested the resident's release;

(2) The resident is a minor under the jurisdiction of the juvenile court;

(3) The resident has been declared legally incapacitated and his guardian has not requested his release; or

(4) The resident's condition is of such a nature that, for the protection of the resident or others, the head of the facility determines that the resident's return to the facility is necessary. Such determination shall be noted in the resident's records.

**633.145. TRANSFER OF PATIENT BETWEEN FACILITIES BY DEPARTMENT — NOTICE, CONSENT.** — 1. The department may transfer a resident from one department [mental retardation] **developmental disability** facility to another if the division director determines that such transfer is desirable to provide the resident improved habilitation or other services, to better insure his safety and welfare, or to locate him in closer proximity to his family and friends.

2. Transfers may only be made to a private [mental retardation] **developmental disability** facility pursuant to section 630.610.

3. Determinations by the division director pursuant to this section shall be written and noted in the resident's records. The division director shall notify the resident, his guardian or next of kin of such determination. The department shall not transfer any resident unless it receives the consent of the resident, his guardian or his parent, if the resident is a minor.

**633.150. TRANSFER OF PATIENT TO MENTAL HEALTH FACILITY BY HEAD OF DEVELOPMENTAL DISABILITY FACILITY, HOW.** — The head of a [mental retardation] **developmental disability** facility may transfer a resident to a mental health facility only under the provisions of chapter 632. The director shall order that such resident be returned to the [mental retardation] **developmental disability** facility when the resident is no longer in need of psychiatric care and treatment.

**633.155. ADMISSION FOR RESPITE CARE FOR LIMITED TIME ONLY.** — 1. The division may provide or obtain respite care for [a mentally retarded] **an intellectually disabled** or developmentally disabled person for respite care of up to twenty-one days which may be extended up to an additional twenty-one days for good cause shown. Any additional respite care beyond forty-two days within a one-year period shall be expressly approved by the director of the division.

2. Notwithstanding the provisions of section 633.120 and section 475.120, a regional center may admit [a mentally retarded] **an intellectually disabled** or developmentally disabled person who has been declared legally incapacitated for respite care without a court order authorizing the guardian of such person to obtain such care of up to twenty-one days for good cause shown.

**633.160. EMERGENCY ADMISSION MAY BE MADE, DURATION, CONDITIONS.** — If a person presents himself, or is presented, to a regional center or department [mental retardation] **developmental disability** facility and is determined to be [mentally retarded or] **intellectually disabled or** developmentally disabled and, as a result, presents an imminent likelihood of serious harm to himself or others as defined in chapter 632, the regional center or [mental retardation] **developmental disability** facility may accept the person for detention for evaluation and treatment for a period not to exceed ninety-six hours under the same procedures contained in chapter 632. The head of the regional center or [mental retardation] **developmental disability** facility may initiate guardianship proceedings to have the person detained beyond the ninety-six hours under chapter 475, or may refer the person to a mental health facility, if the person is mentally ill, for further detention under the procedures in chapter 632.

**633.180. CASH STIPEND, ELIGIBILITY, AMOUNT, PAYMENT, USE — APPLICATION.** — 1. A family with an annual income of sixty thousand dollars or less which has a child with a developmental disability residing in the family home shall be eligible to apply for a cash stipend from the division of [mental retardation and] developmental disabilities in an amount to be determined by the regional advisory council. Such cash stipend amount shall not exceed the maximum monthly federal Supplemental Security Income payment for an individual with a developmental disability who resides alone. Such stipend shall be paid on a monthly basis and shall be considered a benefit and not income to the family. The stipend shall be used to purchase goods and services for the benefit of the family member with a developmental disability. Such goods and services may include, but are not limited to:

- (1) Respite care;
- (2) Personal and attendant care;
- (3) Architectural and vehicular modifications;
- (4) Health- and mental health-related costs not otherwise covered;
- (5) Equipment and supplies;
- (6) Specialized nutrition and clothing;
- (7) Homemaker services;
- (8) Transportation;
- (9) Integrated community activities;
- (10) Training and technical assistance; and
- (11) Individual, family and group counseling.

2. Application for such stipend shall be made to the appropriate regional center. The regional center shall determine the eligibility of the individual to receive services from the division and the division shall forward the application to the regional advisory council to determine the amount of the stipend which may be approved by the council.

3. The family support program shall be funded by moneys appropriated by the general assembly; however, the family support program shall not supplant other programs funded through the division of [mental retardation and] developmental disabilities.

**633.185. FAMILY SUPPORT LOAN PROGRAM — INTEREST RATE — AMOUNT — APPLICATION — FAMILY SUPPORT LOAN PROGRAM FUND CREATED.** — 1. The division of [mental retardation and] developmental disabilities, subject to appropriation by the general assembly, is authorized to implement and administer, as part of the family support program, a

family support loan program, which shall provide a family with an annual income of sixty thousand dollars or less which has an individual with a developmental disability residing in the home, with low-interest, short-term loans to purchase goods and services for the family member with a developmental disability.

2. Interest rates on loans made pursuant to the provisions of this section shall be no more than one percent above the prime interest rate as determined by the federal reserve system on the date the loan is approved. Loans may be for a maximum period of sixty months and the outstanding loan amount to any family may be no more than ten thousand dollars.

3. Applications for loans shall be made to the appropriate regional center. The regional center shall determine the eligibility of the individual to receive services from the division and the division shall forward the application to the regional advisory council to determine the amount of the loan which may be approved by the council.

4. There is hereby created in the state treasury for use by the department of mental health a fund to be known as the "Family Support Loan Program Fund". Moneys deposited in the fund shall be appropriated to the director of the department of mental health to be used for loans pursuant to this section. The fund shall consist of moneys appropriated by the general assembly for starting the fund and money otherwise deposited according to law. Any unexpended balance in the fund at the end of any biennium, not to exceed twice the annual loans made pursuant to this act in the previous fiscal year, is exempt from the provisions of section 33.080 relating to the transfer of unexpended balances to the ordinary revenue fund.

**633.190. PROMULGATION OF RULES.** — 1. The division of [mental retardation and] developmental disabilities, in cooperation with the Missouri planning council for developmental disabilities, shall adopt policies and procedures and, when necessary, shall promulgate rules and regulations regarding:

- (1) Program guidelines and specifications;
- (2) Additional duties of the regional advisory councils;
- (3) Annual evaluation of services provided by each regional center, including an assessment of consumer satisfaction;
- (4) Coordination of the family support program and the use of its funds throughout the state and within each region, with other publicly funded programs, including Medicaid;
- (5) Methodology for allocating resources to families with the funds available;
- (6) Resolution of grievances filed by families pertaining to actions of the family support program;
- (7) Methodology for outreach and education.

2. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

**633.210. OFFICE OF AUTISM SERVICES ESTABLISHED, DUTIES — AUTISM SPECTRUM DISORDER DEFINED.** — 1. There is hereby established in the department of mental health within the division of [mental retardation and] developmental disabilities, an "Office of Autism Services". The office of autism services, under the supervision of the director of the division of [mental retardation and] developmental disabilities, shall provide leadership in program development for children and adults with autism spectrum disorders, to include establishment of program standards and coordination of program capacity.

2. For purposes of this section, the term "autism spectrum disorder" shall be defined as in standard diagnostic criteria for pervasive developmental disorder, to include: autistic disorder; Asperger's syndrome; pervasive developmental disorder-not otherwise specified; childhood disintegrative disorder; and Rett's syndrome.

**633.300. GROUP HOMES AND FACILITIES SUBJECT TO FEDERAL AND STATE LAW — WORKERS SUBJECT TO TRAINING REQUIREMENTS — RULEMAKING AUTHORITY.** — 1. All group homes and [mental retardation] **developmental disability** facilities as defined in section 633.005 shall be subject to all applicable federal and state laws, regulations, and monitoring, including but not limited to sections 630.705 to 630.805.

2. All mental health workers, as defined in subdivision (8) of section 210.900, shall be subject to the same training requirements established for state mental health workers with comparable positions in public group homes and mental health facilities. Such required training shall be paid for by the employer.

3. Group homes and [mental retardation] **developmental disability** facilities shall be subject to the same medical errors reporting requirements of other mental health facilities and group homes.

4. The department shall promulgate rules or amend existing rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

**633.303. TERMINATION OF WORKERS ON DISQUALIFICATION REGISTRY.** — Any employee, including supervisory personnel, of a group home or [mental retardation] **developmental disability** facility who has been placed on the disqualification registry pursuant to section 630.170 shall be terminated. Such requirements shall be specified in contracts between the department and providers pursuant to this section.

**633.309. NO TRANSFER TO HOMES OR FACILITIES WITH NONCOMPLIANCE NOTICES.** — The department of mental health shall not transfer any person to any group home or [mental retardation] **developmental disability** facility that has received a notice of noncompliance, until there is an approved plan of correction pursuant to sections 630.745 and 630.750.

Approved July 12, 2011

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## HB 557 [HCS HB 557]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Allows the Mental Health Earnings Fund to be used for the deposit of revenue received from the proceeds of any sales and services from Mental Health First Aid USA**

AN ACT to repeal sections 630.053 and 630.095, RSMo, and to enact in lieu thereof two new sections relating to the mental health earnings fund.

SECTION

A. Enacting clause.

630.053. Mental health earnings fund — uses — rules and regulations, procedure.

630.095. Copyrights and trademarks by department.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 630.053 and 630.095, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 630.053 and 630.095, to read as follows:

**630.053. MENTAL HEALTH EARNINGS FUND — USES — RULES AND REGULATIONS, PROCEDURE.** — 1. There is hereby created in the state treasury a fund to be known as the "Mental Health Earnings Fund". The state treasurer shall credit to the fund any interest earned from investing the moneys in the fund. Notwithstanding the provisions of section 33.080, money in the mental health earnings fund shall not be transferred and placed to the credit of general revenue at the end of the biennium.

2. Fees received pursuant to the substance abuse traffic offenders program shall be deposited in the mental health earnings fund. Such fees shall not be used for personal services, expenses and equipment or for any demonstration or other program. No other federal or state funds shall be deposited in the fund, except for the purposes provided in subsections 3 [and 4] **to 5** of this section. The moneys received from such fees shall be appropriated solely for assistance in securing alcohol and drug rehabilitation services for persons who are unable to pay for the services they receive.

3. The mental health earnings fund may be used for the deposit of revenue received for the provision of services under a managed care agreement entered into by the department of mental health. Subject to the approval through the appropriation process, such revenues may be expended for the purposes of providing such services pursuant to the managed care agreement and for no other purpose and shall be accounted for separately from all other revenues deposited in the fund.

4. The mental health earnings fund may, if approved through the appropriation process, be used for the deposit of revenue received pursuant to an agreement entered into by the department of mental health and an alcohol and drug abuse counselor certification board for the purpose of providing oversight of counselor certification. Such revenue shall be accounted for separately from all other revenues deposited in the fund.

**5. The mental health earnings fund may be used for the deposit of revenue received from proceeds of any sales and services from Mental Health First Aid USA. Subject to the approval through the appropriation process, such proceeds shall be used for the purpose of funding Mental Health First Aid USA activities and shall be accounted for separately from all other revenues deposited in the fund.**

6. The department of mental health shall promulgate rules and regulations to implement and administer the provisions of this section. No rule or portion of a rule promulgated pursuant to the



authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

**630.095. COPYRIGHTS AND TRADEMARKS BY DEPARTMENT.** — The department may copyright or obtain a trademark for any instructional, training and informational audio-visual materials, manuals and documents which are prepared by department personnel or by persons who receive department funding to prepare such material. If the material is sold directly or for distribution, the department shall pay the proceeds of the sales to the director of revenue for deposit to the general revenue fund, **except for proceeds received under subsection 5 of section 630.053.**

Approved May 5, 2011

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HB 578 [SCS HCS HB 578]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Allows the state or any political subdivision or agency of the state to transfer ownership of used tires, scrap tires, or tire shred to a private entity for disposal or recycling under certain conditions**

AN ACT to amend chapter 260, RSMo, by adding thereto one new section relating to the disposal of tires.

SECTION

- A. Enacting clause.
- 260.269. In-state private entity disposal permitted, when.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Chapter 260, RSMo, is amended by adding thereto one new section, to be known as section 260.269, to read as follows:

**260.269. IN-STATE PRIVATE ENTITY DISPOSAL PERMITTED, WHEN.** — Notwithstanding any provision of law to the contrary, the state, including without limitation, any agency or political subdivision thereof, in possession of used tires, scrap tires, or tire shred may transfer possession and ownership of such tires or shred to any in-state private entity to be lawfully disposed of or recycled; provided, such tires or shred are not burned as a fuel except in a permitted facility; and further provided, such tires shall not be disposed of in a landfill; and still further provided, the cost incurred by the state, agency, or political subdivision transferring such tires or shred is less than the cost the state, agency, or political subdivision would have otherwise incurred had it disposed of such tires or shred. The private entity shall pay for the transportation of such used tires they receive.

Approved July 8, 2011

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## HB 591 [SCS HB 591]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Authorizes the Missouri Dental Board to issue a limited teaching license to a dentist employed as an instructor in an accredited dental school located in this state**

AN ACT to amend chapter 332, RSMo, by adding thereto one new section relating to limited dental teaching license.

## SECTION

A. Enacting clause.

332.425. Instructor in accredited school, issuance of teaching license, when.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Chapter 332, RSMo, is amended by adding thereto one new section, to be known as section 332.425, to read as follows:

**332.425. INSTRUCTOR IN ACCREDITED SCHOOL, ISSUANCE OF TEACHING LICENSE, WHEN.** — **1.** The dental board may issue a limited teaching license to a dentist employed as an instructor in an accredited dental school in Missouri. The holder of a limited teaching license shall be authorized to practice dentistry, in accordance with section 332.071, only within the confines of the accredited dental school programs. A limited teaching license shall be renewed every two years and shall be subject to the same renewal requirements contained in section 332.181. A limited teaching license shall be subject to discipline in accordance with section 332.321 and shall be automatically cancelled and nullified if the holder ceases to be employed as an instructor in the accredited dental school.

**2.** To qualify for a limited teaching license, an applicant shall:

(1) Be a graduate of and hold a degree from a dental school. An applicant shall not be required to be a graduate of an accredited dental school as defined in section 332.011;

(2) Have passed the National Board Examination in accordance with criteria established by the sponsoring body;

(3) Have passed a state or regional entry level competency examination approved by the Missouri dental board for licensure within the previous five years;

(4) Have passed a written jurisprudence examination given by the board on the Missouri dental laws and rules with a grade of at least eighty percent;

(5) Hold current certification in the American Heart Association's Basic Life Support (BLS), Advanced Cardiac Life Support (ACLS), or certification equivalent to BLS or ACLS;

(6) Submit to the board a completed application for licensure on forms provided by the board and the applicable license fee; and

(7) Submit to the board evidence of successful passage of an examination, approved by the board, of spoken and written proficiency in the English language.

Approved July 8, 2011

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## HB 604 [SS SCS HCS HB 604]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Establishes a task force on foster care recruitment, licensing, and retention and the Missouri State Foster Care and Adoption Board and changes the laws regarding parental rights and foster care placements**

AN ACT to repeal sections 210.112, 210.496, 210.498, 210.565, 211.031, 211.447, and 453.070, RSMo, and to enact in lieu thereof ten new sections relating to parental rights.

**SECTION**

- A. Enacting clause.
- 143.1015. Foster care and adoptive parents recruitment and retention fund, refund donation to — director's duties — sunset provision.
- 210.112. Children's services providers and agencies, contracting with, requirements — reports to general assembly — task force created — rulemaking authority.
- 210.496. Refusal to issue, suspension or revocation of licenses — grounds.
- 210.498. Access to records on the suspension or revocation of a foster home license — procedure for release of information.
- 210.565. Relatives of child shall be given foster home placement, when — relative, defined — order of preference — specific findings required, when — sibling placement — age of relative not a factor, when — federal requirements to be followed for placement of Native American children — waiver of certain standards, when — GAL to ascertain child's wishes, when.
- 210.617. Missouri state foster care and adoption board created, duties, members, expenses, meetings — written annual report, when.
- 211.031. Juvenile court to have exclusive jurisdiction, when — exceptions — home schooling, attendance violations, how treated.
- 211.447. Petition to terminate parental rights filed, when — juvenile court may terminate parental rights, when — investigation to be made — grounds for termination.
- 453.070. Investigations precondition for adoption — contents of investigation report — how conducted — assessments of adoptive parents, contents — waiving of investigation, when — fees — preference to foster parents, when.
- 453.600. Fund created, use of moneys — board created, purpose, members, duties — sunset provision.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 210.112, 210.496, 210.498, 210.565, 211.031, 211.447, and 453.070, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 143.1015, 210.112, 210.496, 210.498, 210.565, 210.617, 211.031, 211.447, 453.070, and 453.600, to read as follows:

**143.1015. FOSTER CARE AND ADOPTIVE PARENTS RECRUITMENT AND RETENTION FUND, REFUND DONATION TO — DIRECTOR'S DUTIES — SUNSET PROVISION.** — **1.** In each taxable year beginning on or after January 1, 2011, each individual or corporation entitled to a tax refund in an amount sufficient to make a designation under this section may designate that one dollar or any amount in excess of one dollar on a single return, and two dollars or any amount in excess of two dollars on a combined return, of the refund due be credited to the foster care and adoptive parents recruitment and retention fund as established under section 453.600, hereinafter referred to as the fund. If any individual or corporation that is not entitled to a tax refund in an amount sufficient to make a designation under this section wishes to make a contribution to the fund, such individual or corporation may, by separate check, draft, or other negotiable instrument, send in with the payment of taxes, or may send in separately, that amount, clearly designated for the foster care and adoptive parents recruitment and retention fund, the individual or corporation wishes to contribute. The department of revenue shall deposit such amount to the fund as provided in

subsections 2 and 3 of this section. All moneys credited to the fund shall be considered nonstate funds under the provisions of article IV, section 15 of the Missouri Constitution.

2. The director of revenue shall deposit at least monthly all contributions designated by individuals under this section to the state treasurer for deposit to the fund.

3. The director of revenue shall deposit at least monthly all contributions designated by corporations under this section, less an amount sufficient to cover the costs of collection and handling by the department of revenue, to the state treasury for deposit to the fund.

4. A contribution designated under this section shall only be deposited in the fund after all other claims against the refund from which such contribution is to be made have been satisfied.

5. Moneys deposited in the fund shall be distributed by the department of social services in accordance with the provisions of this section and section 453.600.

6. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after August 28, 2011, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on December thirty-first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

**210.112. CHILDREN'S SERVICES PROVIDERS AND AGENCIES, CONTRACTING WITH, REQUIREMENTS — REPORTS TO GENERAL ASSEMBLY — TASK FORCE CREATED — RULEMAKING AUTHORITY.** — 1. It is the policy of this state and its agencies to implement a foster care and child protection and welfare system focused on providing the highest quality of services and outcomes for children and their families. The department of social services shall implement such system subject to the following principles:

(1) The safety and welfare of children is paramount;

(2) Providers of direct services to children and their families will be evaluated in a uniform and consistent basis;

(3) Services to children and their families shall be provided in a timely manner to maximize the opportunity for successful outcomes; and

(4) Any provider of direct services to children and families shall have the appropriate and relevant training, education, and expertise to provide the highest quality of services possible which shall be consistent with the federal standards, but not less than the standards and policies used by the children's division as of January 1, 2004.

2. On or before July 1, 2005, and subject to appropriations, the children's division and any other state agency deemed necessary by the division shall, in consultation with the community and providers of services, enter into and implement contracts with qualified children's services providers and agencies to provide a comprehensive and deliberate system of service delivery for children and their families. Contracts shall be awarded through a competitive process and provided by children's services providers and agencies currently contracting with the state to provide such services and by public and private not-for-profit or limited liability corporations owned exclusively by not-for-profit corporations children's services providers and agencies which have:

(1) A proven record of providing child welfare services within the state of Missouri which shall be consistent with the federal standards, but not less than the standards and policies used by the children's division as of January 1, 2004; and

(2) The ability to provide a range of child welfare services, which may include case management services, family-centered services, foster and adoptive parent recruitment and retention, residential care, in-home services, foster care services, adoption services, relative care case management, planned permanent living services, and family reunification services.

No contracts shall be issued for services related to the child abuse and neglect hotline, investigations of alleged abuse and neglect, and initial family assessments. Any contracts entered into by the division shall be in accordance with all federal laws and regulations, and shall not result in the loss of federal funding. Such children's services providers and agencies under contract with the division shall be subject to all federal, state, and local laws and regulations relating to the provision of such services, and shall be subject to oversight and inspection by appropriate state agencies to assure compliance with standards which shall be consistent with the federal standards, but not less than the standards and policies used by the children's division as of January 1, 2004.

3. In entering into and implementing contracts under subsection 2 of this section, the division shall consider and direct their efforts towards geographic areas of the state, including Greene County, where eligible direct children's services providers and agencies are currently available and capable of providing a broad range of services, including case management services, family-centered services, foster and adoptive parent recruitment and retention, residential care, family preservation services, foster care services, adoption services, relative care case management, other planned living arrangements, and family reunification services consistent with federal guidelines. Nothing in this subsection shall prohibit the division from contracting on an as-needed basis for any individual child welfare service listed above.

4. The contracts entered into under this section shall assure that:

(1) Child welfare services shall be delivered to a child and the child's family by professionals who have substantial and relevant training, education, or competencies otherwise demonstrated in the area of children and family services;

(2) Children's services providers and agencies shall be evaluated by the division based on objective, consistent, and performance-based criteria;

(3) Any case management services provided shall be subject to a case management plan established under subsection 5 of this section which is consistent with all relevant federal guidelines. The case management plan shall focus on attaining permanency in children's living conditions to the greatest extent possible and shall include concurrent planning and independent living where appropriate in accordance with the best interests of each child served and considering relevant factors applicable to each individual case as provided by law, including:

(a) The interaction and interrelationship of a child with the child's foster parents, biological or adoptive parents, siblings, and any other person who may significantly affect the child's best interests;

(b) A child's adjustment to his or her foster home, school, and community;

(c) The mental and physical health of all individuals involved, including any history of abuse of or by any individuals involved;

(d) The needs of the child for a continuing relationship with the child's biological or adoptive parents and the ability and willingness of the child's biological or adoptive parents to actively perform their functions as parents with regard to the needs of the child; and

(e) For any child under ten years old, treatment services may be available as defined in section 210.110. Assessments, as defined in section 210.110, may occur to determine which treatment services best meet the child's psychological and social needs. When the assessment indicates that a child's needs can be best resolved by intensive twenty-four-hour treatment services, the division will locate, contract, and place the child with the appropriate organizations. This placement will be viewed as the least restrictive for the child based on the assessment;

(4) The delivery system shall have sufficient flexibility to take into account children and families on a case-by-case basis;

(5) The delivery system shall provide a mechanism for the assessment of strategies to work with children and families immediately upon entry into the system to maximize permanency and successful outcome in the shortest time possible and shall include concurrent planning. Outcome measures for private and public agencies shall be equal for each program; and

(6) Payment to the children's services providers and agencies shall be made based on the reasonable costs of services, including responsibilities necessary to execute the contract. Contracts shall provide incentives in addition to the costs of services provided in recognition of accomplishment of the case goals and the corresponding cost savings to the state. The division shall promulgate rules to implement the provisions of this subdivision.

5. Contracts entered into under this section shall require that a case management plan consistent with all relevant federal guidelines shall be developed for each child at the earliest time after the initial investigation, but in no event longer than fourteen days after the initial investigation or referral to the contractor by the division. Such case management plan shall be presented to the court and be the foundation of service delivery to the child and family. The case management plan shall, at a minimum, include:

- (1) An outcome target based on the child and family situation achieving permanency or independent living, where appropriate;
- (2) Services authorized and necessary to facilitate the outcome target;
- (3) Time frames in which services will be delivered; and
- (4) Necessary evaluations and reporting.

In addition to any visits and assessments required under case management, services to be provided by a public or private children's services provider under the specific case management plan may include family-centered services, foster and adoptive parent recruitment and retention, residential care, in-home services, foster care services, adoption services, relative care case services, planned permanent living services, and family reunification services. In all cases, an appropriate level of services shall be provided to the child and family after permanency is achieved to assure a continued successful outcome.

**6. The division shall convene a task force to review the recruitment, licensing and retention of foster and adoptive parents statewide. In addition to representatives of the division and department, the task force shall include representatives of the private sector and faith-based community which provide recruitment and licensure services. The purpose of the task force shall be to study the extent to which changes in the system of recruiting, licensing, and retaining foster and adoptive parents would enhance the effectiveness of the system statewide. The task force shall develop a report of its findings with recommendations by December 1, 2011, and provide copies of the report to the general assembly and to the governor.**

7. On or before July 15, 2006, and each July fifteenth thereafter that the project is in operation, the division shall submit a report to the general assembly which shall include:

- (1) Details about the specifics of the contracts, including the number of children and families served, the cost to the state for contracting such services, the current status of the children and families served, an assessment of the quality of services provided and outcomes achieved, and an overall evaluation of the project; and
- (2) Any recommendations regarding the continuation or possible statewide implementation of such project; and
- (3) Any information or recommendations directly related to the provision of direct services for children and their families that any of the contracting children's services providers and agencies request to have included in the report.

[7.] 8. The division shall accept as prima facie evidence of completion of the requirements for licensure under sections 210.481 to 210.511 proof that an agency is accredited by any of the following nationally recognized bodies: the Council on Accreditation of Services, Children and

Families, Inc.; the Joint Commission on Accreditation of Hospitals; or the Commission on Accreditation of Rehabilitation Facilities. The division shall not require any further evidence of qualification for licensure if such proof of voluntary accreditation is submitted.

[8.] 9. By February 1, 2005, the children's division shall promulgate and have in effect rules to implement the provisions of this section and, pursuant to this section, shall define implementation plans and dates. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

**210.496. REFUSAL TO ISSUE, SUSPENSION OR REVOCATION OF LICENSES — GROUNDS.**

— The division may refuse to issue either a license or a provisional license to an applicant, or may suspend or revoke the license or provisional license of a licensee, who:

- (1) Fails consistently to comply with the applicable provisions of sections 208.400 to 208.535 and the applicable rules promulgated thereunder;
- (2) Violates any of the provisions of its license;
- (3) Violates state laws or rules relating to the protection of children;
- (4) Furnishes or makes any misleading or false statements or reports to the division;
- (5) Refuses to submit to the division any reports or refuses to make available to the division any records required by the division in making an investigation;
- (6) Fails or refuses to admit authorized representatives of the division at any reasonable time for the purpose of investigation;
- (7) Fails or refuses to submit to an investigation by the division;
- (8) Fails to provide, maintain, equip, and keep in safe and sanitary condition the premises established or used for the care of children being served, as required by law, rule, or ordinance applicable to the location of the foster home or residential care facility; or
- (9) Fails to provide financial resources adequate for the satisfactory care of and services to children being served and the upkeep of the premises.

**Nothing in this section shall be construed to permit discrimination on the basis of disability or disease of an applicant. The disability or disease of an applicant shall not constitute a basis for a determination that the applicant is unfit or not suitable to be a foster parent without a specific showing that there is a causal relationship between the disability or disease and a substantial and significant risk of harm to a child or an inability to perform the duties of a foster parent.**

**210.498. ACCESS TO RECORDS ON THE SUSPENSION OR REVOCATION OF A FOSTER HOME LICENSE — PROCEDURE FOR RELEASE OF INFORMATION.** — Any parent or legal guardian may have access to investigation records kept by the division regarding a decision for the denial of or the suspension or revocation of a license to a specific person to operate or maintain a foster home if such specific person does or may provide services or care to a child of the person requesting the information. The request for the release of such information shall be made to the division director or the director's designee, in writing, by the parent or legal guardian of the child and shall be accompanied with a signed and notarized release form from the person who does or may provide care or services to the child. The notarized release form shall include the full name, date of birth and Social Security number of the person who does or may provide care or services to a child. The response shall include **only** information pertaining to the nature and disposition of any denial, suspension or revocation of a license to operate a foster home. This response shall not include any

identifying information regarding any person other than the person to whom a foster home license was denied, suspended or revoked. The response shall be given within ten working days of the time it was received by the division.

**210.565. RELATIVES OF CHILD SHALL BE GIVEN FOSTER HOME PLACEMENT, WHEN — RELATIVE, DEFINED — ORDER OF PREFERENCE — SPECIFIC FINDINGS REQUIRED, WHEN — SIBLING PLACEMENT — AGE OF RELATIVE NOT A FACTOR, WHEN — FEDERAL REQUIREMENTS TO BE FOLLOWED FOR PLACEMENT OF NATIVE AMERICAN CHILDREN — WAIVER OF CERTAIN STANDARDS, WHEN — GAL TO ASCERTAIN CHILD'S WISHES, WHEN. —**

1. Whenever a child is placed in a foster home and the court has determined pursuant to subsection 3 of this section that foster home placement with relatives is not contrary to the best interest of the child, the children's division shall give foster home placement to relatives of the child. Notwithstanding any rule of the division to the contrary, the children's division shall make diligent efforts to locate the grandparents of the child and determine whether they wish to be considered for placement of the child. Grandparents who request consideration shall be given preference and first consideration for foster home placement of the child. If more than one grandparent requests consideration, the family support team shall make recommendations to the juvenile or family court about which grandparent should be considered for placement.

2. As used in this section, the term "relative" means a grandparent or any other person related to another by blood or affinity within the third degree. The status of a grandparent shall not be affected by the death or the dissolution of the marriage of a son or daughter.

3. **The following shall be the order or preference for placement of a child under this section:**

(1) **Grandparents and relatives;**

(2) **A trusted adult that has a preexisting relationship with the child, such as a godparent, teacher, neighbor, or fellow parishioner who voluntarily agrees to care for the child; and**

(3) **Any foster parent who is currently licensed and capable of accepting placement of the child.**

4. The preference for placement and first consideration for grandparents or preference for placement with other relatives created by this section shall only apply where the court finds that placement with such grandparents or other relatives is not contrary to the best interest of the child considering all circumstances. If the court finds that it is contrary to the best interest of a child to be placed with grandparents or other relatives, the court shall make specific findings on the record detailing the reasons why the best interests of the child necessitate placement of the child with persons other than grandparents or other relatives.

5. **Recognizing the critical nature of sibling bonds for children, the children's division shall make reasonable efforts to place siblings in the same foster care, kinship, guardianship, or adoptive placement, unless doing so would be contrary to the safety or well-being of any of the siblings. If siblings are not placed together, the children's division shall make reasonable efforts to provide frequent visitation or other ongoing interaction between the siblings, unless this interaction would be contrary to a sibling's safety or well-being.**

[4.] 6. The age of the child's grandparent or other relative shall not be the only factor that the children's division takes into consideration when it makes placement decisions and recommendations to the court about placing the child with such grandparent or other relative.

[5.] 7. For any Native American child placed in protective custody, the children's division shall comply with the placement requirements set forth in 25 U.S.C. Section 1915.

[6.] 8. A grandparent or other relative may, on a case-by-case basis, have standards for licensure not related to safety waived for specific children in care that would otherwise impede licensing of the grandparent's or relative's home. **In addition, any person receiving a**



preference may be licensed in an expedited manner if a child is placed under such person's care.

[7.] 9. The guardian ad litem shall ascertain the child's wishes and feelings about his or her placement by conducting an interview or interviews with the child, if appropriate based on the child's age and maturity level, which shall be considered as a factor in placement decisions and recommendations, but shall not supersede the preference for relative placement created by this section or be contrary to the child's best interests.

**210.617. MISSOURI STATE FOSTER CARE AND ADOPTION BOARD CREATED, DUTIES, MEMBERS, EXPENSES, MEETINGS — WRITTEN ANNUAL REPORT, WHEN. — 1. There is hereby created within the department of social services the "Missouri State Foster Care and Adoption Board", which shall provide consultation and assistance to the department and shall draft and provide an independent review of the children's division policies and procedures related to the provision of foster care and adoption in Missouri. Additionally, the board shall determine the nature and content of in-service training which shall be provided to foster and adoptive parents in order to improve the provision of foster care and adoption services to children statewide consistent with section 210.566. The board shall be comprised of foster and adoptive parents as follows:**

**(1) Two members from each of the seven children's division areas within the department of social services delineated as follows:**

- (a) The northwest region;**
- (b) The northeast region;**
- (c) The southeast region;**
- (d) The southwest region;**
- (e) The Kansas City region;**
- (f) The St. Louis area region;**
- (g) The St. Louis City region;**

**(2) Area members shall be appointed by the governor, with the advice and consent of the senate, based upon recommendations by regional foster care and adoption boards, or other similar entities.**

**2. Statewide foster care and adoption association representatives shall be voting members of the board as approved by the board.**

**3. All members of the board shall serve for a term of at least two years. Members may be re-appointed to the board by their entities for consecutive terms. All vacancies on the board shall be filled for the balance of the unexpired term in the same manner in which the board membership which is vacant was originally filled.**

**4. Each member of the board may be reimbursed for actual and necessary expenses incurred by the member in performance of his or her official duties. All reimbursements made under this subsection shall be made from funds within the department of social services' children's division budget.**

**5. All business transactions of the board shall be conducted in public meetings in accordance with sections 610.010 to 610.030.**

**6. The board shall elect officers from the membership consisting of a chairperson, co-chairperson, and secretary. Officers shall serve for a term of two years. The board may elect such other officers and establish such committees as it deems appropriate.**

**7. The board shall establish such procedures necessary to:**

**(1) Review children's division proposed policy and provide written opinions and recommendations for change to the children's division within thirty days of receipt of the proposed policy;**

(2) Provide draft policy suggestions, at the request of the children's division or in response to issues by the board, to the children's division for improvements in foster care or adoption practice; and

(3) Fulfill its statutory requirement in accordance with section 210.566 to determine the content of in-service training to be provided by the children's division to foster and adoptive parents.

8. The board shall provide to the director of the department of social services, the governor, the office of the child advocate, and upon request, members of the general assembly, a written report of annual activities conducted and made.

9. The board shall exercise its powers and duties independently of the children's division within the department of social services in order to ensure partnership and accountability in the provision of services to the state's children affected by abuse and neglect. Budgetary, procurement, and accounting functions shall continue to be performed by the children's division.

**211.031. JUVENILE COURT TO HAVE EXCLUSIVE JURISDICTION, WHEN — EXCEPTIONS — HOME SCHOOLING, ATTENDANCE VIOLATIONS, HOW TREATED.** — 1. Except as otherwise provided in this chapter, the juvenile court or the family court in circuits that have a family court as provided in sections 487.010 to 487.190 shall have exclusive original jurisdiction in proceedings:

(1) Involving any child or person seventeen years of age who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The parents, or other persons legally responsible for the care and support of the child or person seventeen years of age, neglect or refuse to provide proper support, education which is required by law, medical, surgical or other care necessary for his or her well-being; except that reliance by a parent, guardian or custodian upon remedial treatment other than medical or surgical treatment for a child or person seventeen years of age shall not be construed as neglect when the treatment is recognized or permitted pursuant to the laws of this state;

(b) The child or person seventeen years of age is otherwise without proper care, custody or support; or

(c) The child or person seventeen years of age was living in a room, building or other structure at the time such dwelling was found by a court of competent jurisdiction to be a public nuisance pursuant to section 195.130;

(d) The child or person seventeen years of age is a child in need of mental health services and the parent, guardian or custodian is unable to afford or access appropriate mental health treatment or care for the child;

(2) Involving any child who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The child while subject to compulsory school attendance is repeatedly and without justification absent from school; or

(b) The child disobeys the reasonable and lawful directions of his or her parents or other custodian and is beyond their control; or

(c) The child is habitually absent from his or her home without sufficient cause, permission, or justification; or

(d) The behavior or associations of the child are otherwise injurious to his or her welfare or to the welfare of others; or

(e) The child is charged with an offense not classified as criminal, or with an offense applicable only to children; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or any child who is

alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(3) Involving any child who is alleged to have violated a state law or municipal ordinance, or any person who is alleged to have violated a state law or municipal ordinance prior to attaining the age of seventeen years, in which cases jurisdiction may be taken by the court of the circuit in which the child or person resides or may be found or in which the violation is alleged to have occurred; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, and except that the juvenile court shall have concurrent jurisdiction with the municipal court over any child who is alleged to have violated a municipal curfew ordinance, and except that the juvenile court shall have concurrent jurisdiction with the circuit court on any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(4) For the adoption of a person;

(5) For the commitment of a child or person seventeen years of age to the guardianship of the department of social services as provided by law.

2. Transfer of a matter, proceeding, jurisdiction or supervision for a child or person seventeen years of age who resides in a county of this state shall be made as follows:

(1) Prior to the filing of a petition and upon request of any party or at the discretion of the juvenile officer, the matter in the interest of a child or person seventeen years of age may be transferred by the juvenile officer, with the prior consent of the juvenile officer of the receiving court, to the county of the child's residence or the residence of the person seventeen years of age for future action;

(2) Upon the motion of any party or on its own motion prior to final disposition on the pending matter, the court in which a proceeding is commenced may transfer the proceeding of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age, or the county in which the offense pursuant to subdivision (3) of subsection 1 of this section is alleged to have occurred for further action;

(3) Upon motion of any party or on its own motion, the court in which jurisdiction has been taken pursuant to subsection 1 of this section may at any time thereafter transfer jurisdiction of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age for further action with the prior consent of the receiving court;

(4) Upon motion of any party or upon its own motion at any time following a judgment of disposition or treatment pursuant to section 211.181, the court having jurisdiction of the cause may place the child or person seventeen years of age under the supervision of another juvenile court within or without the state pursuant to section 210.570 with the consent of the receiving court;

(5) Upon motion of any child or person seventeen years of age or his or her parent, the court having jurisdiction shall grant one change of judge pursuant to Missouri Supreme Court Rules;

(6) Upon the transfer of any matter, proceeding, jurisdiction or supervision of a child or person seventeen years of age, certified copies of all legal and social documents and records pertaining to the case on file with the clerk of the transferring juvenile court shall accompany the transfer.

3. In any proceeding involving any child or person seventeen years of age taken into custody in a county other than the county of the child's residence or the residence of a person seventeen years of age, the juvenile court of the county of the child's residence or the residence of a person seventeen years of age shall be notified of such taking into custody within seventy-two hours.

4. When an investigation by a juvenile officer pursuant to this section reveals that the only basis for action involves an alleged violation of section 167.031 involving a child who alleges to be home schooled, the juvenile officer shall contact a parent or parents of such child to verify that the child is being home schooled and not in violation of section 167.031 before making a report of

such a violation. Any report of a violation of section 167.031 made by a juvenile officer regarding a child who is being home schooled shall be made to the prosecuting attorney of the county where the child legally resides.

**5. The disability or disease of a parent shall not constitute a basis for a determination that a child is a child in need of care or for the removal of custody of a child from the parent without a specific showing that there is a causal relation between the disability or disease and harm to the child.**

**211.447. PETITION TO TERMINATE PARENTAL RIGHTS FILED, WHEN — JUVENILE COURT MAY TERMINATE PARENTAL RIGHTS, WHEN — INVESTIGATION TO BE MADE — GROUNDS FOR TERMINATION.** — 1. Any information that could justify the filing of a petition to terminate parental rights may be referred to the juvenile officer by any person. The juvenile officer shall make a preliminary inquiry and if it does not appear to the juvenile officer that a petition should be filed, such officer shall so notify the informant in writing within thirty days of the referral. Such notification shall include the reasons that the petition will not be filed. Thereupon, the informant may bring the matter directly to the attention of the judge of the juvenile court by presenting the information in writing, and if it appears to the judge that the information could justify the filing of a petition, the judge may order the juvenile officer to take further action, including making a further preliminary inquiry or filing a petition.

2. Except as provided for in subsection 4 of this section, a petition to terminate the parental rights of the child's parent or parents shall be filed by the juvenile officer or the division, or if such a petition has been filed by another party, the juvenile officer or the division shall seek to be joined as a party to the petition, when:

(1) Information available to the juvenile officer or the division establishes that the child has been in foster care for at least fifteen of the most recent twenty-two months; or

(2) A court of competent jurisdiction has determined the child to be an abandoned infant. For purposes of this subdivision, an "infant" means any child one year of age or under at the time of filing of the petition. The court may find that an infant has been abandoned if:

(a) The parent has left the child under circumstances that the identity of the child was unknown and could not be ascertained, despite diligent searching, and the parent has not come forward to claim the child; or

(b) The parent has, without good cause, left the child without any provision for parental support and without making arrangements to visit or communicate with the child, although able to do so; or

(3) A court of competent jurisdiction has determined that the parent has:

(a) Committed murder of another child of the parent; or

(b) Committed voluntary manslaughter of another child of the parent; or

(c) Aided or abetted, attempted, conspired or solicited to commit such a murder or voluntary manslaughter; or

(d) Committed a felony assault that resulted in serious bodily injury to the child or to another child of the parent.

3. A termination of parental rights petition shall be filed by the juvenile officer or the division, or if such a petition has been filed by another party, the juvenile officer or the division shall seek to be joined as a party to the petition, within sixty days of the judicial determinations required in subsection 2 of this section, except as provided in subsection 4 of this section. Failure to comply with this requirement shall not deprive the court of jurisdiction to adjudicate a petition for termination of parental rights which is filed outside of sixty days.

4. If grounds exist for termination of parental rights pursuant to subsection 2 of this section, the juvenile officer or the division may, but is not required to, file a petition to terminate the parental rights of the child's parent or parents if:

(1) The child is being cared for by a relative; or

(2) There exists a compelling reason for determining that filing such a petition would not be in the best interest of the child, as documented in the permanency plan which shall be made available for court review; or

(3) The family of the child has not been provided such services as provided for in section 211.183.

5. The juvenile officer or the division may file a petition to terminate the parental rights of the child's parent when it appears that one or more of the following grounds for termination exist:

(1) The child has been abandoned. For purposes of this subdivision a "child" means any child over one year of age at the time of filing of the petition. The court shall find that the child has been abandoned if, for a period of six months or longer:

(a) The parent has left the child under such circumstances that the identity of the child was unknown and could not be ascertained, despite diligent searching, and the parent has not come forward to claim the child; or

(b) The parent has, without good cause, left the child without any provision for parental support and without making arrangements to visit or communicate with the child, although able to do so;

(2) The child has been abused or neglected. In determining whether to terminate parental rights pursuant to this subdivision, the court shall consider and make findings on the following conditions or acts of the parent:

(a) A mental condition which is shown by competent evidence either to be permanent or such that there is no reasonable likelihood that the condition can be reversed and which renders the parent unable to knowingly provide the child the necessary care, custody and control;

(b) Chemical dependency which prevents the parent from consistently providing the necessary care, custody and control of the child and which cannot be treated so as to enable the parent to consistently provide such care, custody and control;

(c) A severe act or recurrent acts of physical, emotional or sexual abuse toward the child or any child in the family by the parent, including an act of incest, or by another under circumstances that indicate that the parent knew or should have known that such acts were being committed toward the child or any child in the family; or

(d) Repeated or continuous failure by the parent, although physically or financially able, to provide the child with adequate food, clothing, shelter, or education as defined by law, or other care and control necessary for the child's physical, mental, or emotional health and development.

**Nothing in this subdivision shall be construed to permit discrimination on the basis of disability or disease;**

(3) The child has been under the jurisdiction of the juvenile court for a period of one year, and the court finds that the conditions which led to the assumption of jurisdiction still persist, or conditions of a potentially harmful nature continue to exist, that there is little likelihood that those conditions will be remedied at an early date so that the child can be returned to the parent in the near future, or the continuation of the parent-child relationship greatly diminishes the child's prospects for early integration into a stable and permanent home. In determining whether to terminate parental rights under this subdivision, the court shall consider and make findings on the following:

(a) The terms of a social service plan entered into by the parent and the division and the extent to which the parties have made progress in complying with those terms;

(b) The success or failure of the efforts of the juvenile officer, the division or other agency to aid the parent on a continuing basis in adjusting his circumstances or conduct to provide a proper home for the child;

(c) A mental condition which is shown by competent evidence either to be permanent or such that there is no reasonable likelihood that the condition can be reversed and which renders the parent unable to knowingly provide the child the necessary care, custody and control;

(d) Chemical dependency which prevents the parent from consistently providing the necessary care, custody and control over the child and which cannot be treated so as to enable the parent to consistently provide such care, custody and control; or

(4) The parent has been found guilty or pled guilty to a felony violation of chapter 566 when the child or any child in the family was a victim, or a violation of section 568.020 when the child or any child in the family was a victim. As used in this subdivision, a "child" means any person who was under eighteen years of age at the time of the crime and who resided with such parent or was related within the third degree of consanguinity or affinity to such parent; or

(5) The child was conceived and born as a result of an act of forcible rape. When the biological father has pled guilty to, or is convicted of, the forcible rape of the birth mother, such a plea or conviction shall be conclusive evidence supporting the termination of the biological father's parental rights; or

(6) The parent is unfit to be a party to the parent and child relationship because of a consistent pattern of committing a specific abuse, including but not limited to, abuses as defined in section 455.010, child abuse or drug abuse before the child or of specific conditions directly relating to the parent and child relationship either of which are determined by the court to be of a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental or emotional needs of the child. It is presumed that a parent is unfit to be a party to the parent-child relationship upon a showing that within a three-year period immediately prior to the termination adjudication, the parent's parental rights to one or more other children were involuntarily terminated pursuant to subsection 2 or 4 of this section or subdivisions (1), (2), (3) or (4) of subsection 5 of this section or similar laws of other states.

6. The juvenile court may terminate the rights of a parent to a child upon a petition filed by the juvenile officer or the division, or in adoption cases, by a prospective parent, if the court finds that the termination is in the best interest of the child and when it appears by clear, cogent and convincing evidence that grounds exist for termination pursuant to subsection 2, 4 or 5 of this section.

7. When considering whether to terminate the parent-child relationship pursuant to subsection 2 or 4 of this section or subdivision (1), (2), (3) or (4) of subsection 5 of this section, the court shall evaluate and make findings on the following factors, when appropriate and applicable to the case:

- (1) The emotional ties to the birth parent;
- (2) The extent to which the parent has maintained regular visitation or other contact with the child;
- (3) The extent of payment by the parent for the cost of care and maintenance of the child when financially able to do so including the time that the child is in the custody of the division or other child-placing agency;
- (4) Whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent within an ascertainable period of time;
- (5) The parent's disinterest in or lack of commitment to the child;
- (6) The conviction of the parent of a felony offense that the court finds is of such a nature that the child will be deprived of a stable home for a period of years; provided, however, that incarceration in and of itself shall not be grounds for termination of parental rights;
- (7) Deliberate acts of the parent or acts of another of which the parent knew or should have known that subjects the child to a substantial risk of physical or mental harm.

8. The court may attach little or no weight to infrequent visitations, communications, or contributions. It is irrelevant in a termination proceeding that the maintenance of the parent-child relationship may serve as an inducement for the parent's rehabilitation.

9. In actions for adoption pursuant to chapter 453, the court may hear and determine the issues raised in a petition for adoption containing a prayer for termination of parental rights filed with the same effect as a petition permitted pursuant to subsection 2, 4, or 5 of this section.

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**10. The disability or disease of a parent shall not constitute a basis for a termination of parental rights without a specific showing that there is a causal relation between the disability or disease and harm to the child.**

**453.070. INVESTIGATIONS PRECONDITION FOR ADOPTION — CONTENTS OF INVESTIGATION REPORT — HOW CONDUCTED — ASSESSMENTS OF ADOPTIVE PARENTS, CONTENTS — WAIVING OF INVESTIGATION, WHEN — FEES — PREFERENCE TO FOSTER PARENTS, WHEN.** — 1. Except as provided in subsection 5 of this section, no decree for the adoption of a child under eighteen years of age shall be entered for the petitioner or petitioners in such adoption as ordered by the juvenile court having jurisdiction, until a full investigation, which includes an assessment of the adoptive parents, an appropriate postplacement assessment and a summary of written reports as provided for in section 453.026, and any other pertinent information relevant to whether the child is suitable for adoption by the petitioner and whether the petitioner is suitable as a parent for the child, has been made. The report shall also include a statement to the effect that the child has been considered as a potential subsidy recipient.

2. Such investigation shall be made, as directed by the court having jurisdiction, either by the division of family services of the state department of social services, a juvenile court officer, a licensed child-placement agency, a social worker licensed pursuant to chapter 337, or other suitable person appointed by the court. The results of such investigation shall be embodied in a written report that shall be submitted to the court within ninety days of the request for the investigation.

3. The department of social services, division of family services, shall develop rules and regulations regarding the content of the assessment of the petitioner or petitioners. The content of the assessment shall include but not be limited to, a report on the condition of the petitioner's home and information on the petitioner's education, financial, marital, medical and psychological status and criminal background check. If an assessment is conducted after August 28, 1997, but prior to the promulgation of rules and regulations by the department concerning the contents of such assessment, any discrepancy between the contents of the actual assessment and the contents of the assessment required by department rule shall not be used as the sole basis for invalidating an adoption. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536.

4. The assessment of petitioner or petitioners shall be submitted to the petitioner and to the court prior to the scheduled hearing of the adoptive petition.

5. In cases where the adoption or custody involves a child under eighteen years of age that is the natural child of one of the petitioners and where all of the parents required by this chapter to give consent to the adoption or transfer of custody have given such consent, the juvenile court may waive the investigation and report, except the criminal background check, and enter the decree for the adoption or order the transfer of custody without such investigation and report.

6. In the case of an investigation and report made by the division of family services by order of the court, the court may order the payment of a reasonable fee by the petitioner to cover the costs of the investigation and report.

7. Any adult person or persons over the age of eighteen, who, as foster parent or parents, have cared for a foster child continuously for a period of nine months or more and bonding has occurred as evidenced by the positive emotional and physical interaction between the foster parent and child, may apply to such authorized agency for the placement of such child with them for the purpose of adoption if the child is eligible for adoption. The agency and court shall give preference and first consideration for adoptive placements to foster parents. However, the final determination of the propriety of the adoption of such foster child shall be within the sole discretion of the court.

**8. (1) Nothing in this section shall be construed to permit discrimination on the basis of disability or disease of a prospective adoptive parent.**

(2) The disability or disease of a prospective adoptive parent shall not constitute a basis for a determination that the petitioner is unfit or not suitable to be an adoptive parent without a specific showing that there is a causal relationship between the disability or disease and a substantial and significant risk of harm to a child.

**453.600. FUND CREATED, USE OF MONEYS — BOARD CREATED, PURPOSE, MEMBERS, DUTIES — SUNSET PROVISION. — 1.** There is hereby created in the state treasury the "Foster Care and Adoptive Parents Recruitment and Retention Fund" which shall consist of all gifts, donations, transfers, and moneys appropriated by the general assembly, and bequests to the fund. The fund shall maintain no more than the total of the last two years of funding or a minimum of three hundred thousand dollars, whichever is greater. The fund shall be administered by the foster care and adoptive parents recruitment and retention fund board created in subsection 3 of this section.

2. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

3. There is hereby created the "Foster Care and Adoptive Parents Recruitment and Retention Fund Board" within the department of social services. The board shall consist of the following members or their designees:

- (1) The director of the department of social services;
- (2) The director of the department of mental health;
- (3) The director of the department of health and senior services;
- (4) The following six members to be appointed by the director of the department of social services:
  - (a) Two representatives of a recognized foster parent association;
  - (b) Two representatives of a licensed child-placing agency; and
  - (c) Two representatives of a licensed residential treatment center.

Members appointed under subdivision (4) of this subsection shall serve three-year terms, subject to reappointment. Of the members initially appointed, three shall be appointed for a two-year term and three shall be appointed three-year terms. All members of the board shall serve without compensation but shall, subject to appropriation, be reimbursed for reasonable and necessary expenses actually incurred in the performance of their official duties as members of the board. The department of social services shall, with existing resources, provide administrative support and current staff as necessary for the effective operation of the board.

4. Upon appropriation, moneys in the fund shall be used to grant awards to licensed community-based foster care and adoption recruitment programs. The board shall establish guidelines for disbursement of the fund to certain programs. Such programs shall include, but not be limited to, recruitment and retention of foster and adoptive families for children who:

- (1) Have been in out-of-home placement for fifteen months or more;
- (2) Are more than twelve years of age; or
- (3) Are in sibling groups.

Moneys in the fund shall not be subject to appropriation for purposes other than those of evidence-based foster care and adoption programs as designated by the board established under this section.



5. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new fund authorized under this section shall automatically sunset six years after August 28, 2011, unless reauthorized by an act of the general assembly; and

(2) If such fund is reauthorized, the fund authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on December thirty-first of the calendar year immediately following the calendar year in which the fund authorized under this section is sunset.

Approved July 12, 2011

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HB 631 [SCS HCS HB 631]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Authorizes a person or corporation to designate a tax refund to the Developmental Disabilities Waiting List Equity Trust Fund and the American Red Cross Fund**

AN ACT to amend chapter 143, RSMo, by adding thereto two new sections relating to designation of tax refunds to certain funds.

SECTION

- A. Enacting clause.  
143.1013. American Red Cross trust fund, refund donation to — fund created — director's duties — sunset provision.  
143.1017. Developmental disabilities waiting list equity trust fund, refund donation to — fund created — director's duties — sunset provision.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION. ENACTING CLAUSE.** — Chapter 143, RSMo, is amended by adding thereto two new sections, to be known as sections 143.1013 and 143.1017, to read as follows:

**143.1013. AMERICAN RED CROSS TRUST FUND, REFUND DONATION TO — FUND CREATED — DIRECTOR'S DUTIES — SUNSET PROVISION. — 1.** For all taxable years beginning on or after January 1, 2011, each individual or corporation entitled to a tax refund in an amount sufficient to make a designation under this section may designate that one dollar or any amount in excess of one dollar on a single return, and two dollars or any amount in excess of two dollars on a combined return, of the refund due be credited to the American Red Cross trust fund. If any individual or corporation that is not entitled to a tax refund in an amount sufficient to make a designation under this section wishes to make a contribution to the fund, such individual or corporation may, by separate check, draft, or other negotiable instrument, send in with the payment of taxes, or may send in separately, that amount the individual or corporation wishes to contribute. Such amounts shall be clearly designated for the fund.

2. There is hereby created in the state treasury the "American Red Cross Trust Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund and, upon

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appropriation, money in the fund shall be used solely for the administration of this section. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund. All moneys credited to the trust fund shall be considered nonstate funds under section 15, article IV, Constitution of Missouri. The treasurer shall distribute all moneys deposited in the fund at times the treasurer deems appropriate to the American Red Cross.

3. The director of revenue shall deposit at least monthly all contributions designated by individuals under this section to the state treasurer for deposit to the fund. The director of revenue shall deposit at least monthly all contributions designated by the corporations under this section, less an amount sufficient to cover the costs of collection and handling by the department of revenue, to the state treasury for deposit to the fund. A contribution designated under this section shall only be deposited in the fund after all other claims against the refund from which such contribution is to be made have been satisfied.

4. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset on December thirty-first six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset on December thirty-first twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

**143.1017. DEVELOPMENTAL DISABILITIES WAITING LIST EQUITY TRUST FUND, REFUND DONATION TO — FUND CREATED — DIRECTOR'S DUTIES — SUNSET PROVISION. — 1.** For all taxable years beginning on or after January 1, 2011, each individual or corporation entitled to a tax refund in an amount sufficient to make a designation under this section may designate that one dollar or any amount in excess of one dollar on a single return, and two dollars or any amount in excess of two dollars on a combined return, of the refund due be credited to the developmental disabilities waiting list equity trust fund. If any individual or corporation that is not entitled to a tax refund in an amount sufficient to make a designation under this section wishes to make a contribution to the fund, such individual or corporation may, by separate check, draft, or other negotiable instrument, send in with the payment of taxes, or may send in separately, that amount the individual or corporation wishes to contribute. Such amounts shall be clearly designated for the fund.

2. There is hereby created in the state treasury the "Developmental Disabilities Waiting List Equity Trust Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund and, upon appropriation, money in the fund shall be used solely for the administration of this section and for providing community services and support to people with developmental disabilities and such person's families who are on the developmental disabilities waiting list and are eligible for but not receiving services. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund. All moneys credited to the trust fund shall be considered nonstate funds under section 15, article IV, Constitution of Missouri. The treasurer shall distribute all moneys deposited in

the fund at times the treasurer deems appropriate to the department of mental health. The moneys in the developmental disabilities waiting list equity trust fund established in this subsection shall not be appropriated in lieu of general state revenues.

3. The director of revenue shall deposit at least monthly all contributions designated by individuals under this section to the state treasurer for deposit to the fund. The director of revenue shall deposit at least monthly all contributions designated by the corporations under this section, less an amount sufficient to cover the costs of collection and handling by the department of revenue, to the state treasury for deposit to the fund. A contribution designated under this section shall only be deposited in the fund after all other claims against the refund from which such contribution is to be made have been satisfied.

4. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset on December thirty-first six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset on December thirty-first twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

Approved July 12, 2011

## HB 641 [SCS HCS HB 641]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

### Changes the laws regarding controlled substances

AN ACT to repeal sections 195.010, 195.017, 195.022, 195.202, and 195.217, RSMo, and to enact in lieu thereof five new sections relating to controlled substances, with an existing penalty provision.

#### SECTION

- A. Enacting clause.
- 195.010. Definitions.
- 195.017. Substances, how placed in schedules — list of scheduled substances — publication of schedules annually — electronic log of transactions to be maintained, when — certain products to be located behind pharmacy counter — exemption from requirements, when — rulemaking authority.
- 195.022. Chemical substances structurally similar to Schedule I controlled substances to be treated as Schedule I controlled substance.
- 195.202. Possession or control of a controlled substance, exception, penalty.
- 195.217. Crime of distribution of a controlled substance near a park, penalty.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 195.010, 195.017, 195.022, 195.202, and 195.217, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 195.010, 195.017, 195.022, 195.202, and 195.217, to read as follows:

**195.010. DEFINITIONS.** — The following words and phrases as used in sections 195.005 to 195.425, unless the context otherwise requires, mean:

(1) "Addict", a person who habitually uses one or more controlled substances to such an extent as to create a tolerance for such drugs, and who does not have a medical need for such drugs, or who is so far addicted to the use of such drugs as to have lost the power of self-control with reference to his addiction;

(2) "Administer", to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

(a) A practitioner (or, in his presence, by his authorized agent); or

(b) The patient or research subject at the direction and in the presence of the practitioner;

(3) "Agent", an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. The term does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman while acting in the usual and lawful course of the carrier's or warehouseman's business;

(4) "Attorney for the state", any prosecuting attorney, circuit attorney, or attorney general authorized to investigate, commence and prosecute an action under sections 195.005 to 195.425;

(5) "Controlled substance", a drug, substance, or immediate precursor in Schedules I through V listed in sections 195.005 to 195.425;

(6) "Controlled substance analogue", a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

(a) Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

(b) With respect to a particular individual, which that individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II. The term does not include a controlled substance; any substance for which there is an approved new drug application; any substance for which an exemption is in effect for investigational use, for a particular person, under Section 505 of the federal Food, Drug and Cosmetic Act (21 U.S.C. 355) to the extent conduct with respect to the substance is pursuant to the exemption; or any substance to the extent not intended for human consumption before such an exemption takes effect with respect to the substance;

(7) "Counterfeit substance", a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance;

(8) "Deliver" or "delivery", the actual, constructive, or attempted transfer from one person to another of drug paraphernalia or of a controlled substance, or an imitation controlled substance, whether or not there is an agency relationship, and includes a sale;

(9) "Dentist", a person authorized by law to practice dentistry in this state;

(10) "Depressant or stimulant substance":

(a) A drug containing any quantity of barbituric acid or any of the salts of barbituric acid or any derivative of barbituric acid which has been designated by the United States Secretary of Health and Human Services as habit forming under 21 U.S.C. 352(d);

(b) A drug containing any quantity of:

a. Amphetamine or any of its isomers;

b. Any salt of amphetamine or any salt of an isomer of amphetamine; or

c. Any substance the United States Attorney General, after investigation, has found to be, and by regulation designated as, habit forming because of its stimulant effect on the central nervous system;

(c) Lysergic acid diethylamide; or

(d) Any drug containing any quantity of a substance that the United States Attorney General, after investigation, has found to have, and by regulation designated as having, a potential for abuse

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because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect;

(11) "Dispense", to deliver a narcotic or controlled dangerous drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for such delivery. "Dispenser" means a practitioner who dispenses;

(12) "Distribute", to deliver other than by administering or dispensing a controlled substance;

(13) "Distributor", a person who distributes;

(14) "Drug":

(a) Substances recognized as drugs in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or animals;

(c) Substances, other than food, intended to affect the structure or any function of the body of humans or animals; and

(d) Substances intended for use as a component of any article specified in this subdivision. It does not include devices or their components, parts or accessories;

(15) "Drug-dependent person", a person who is using a controlled substance and who is in a state of psychic or physical dependence, or both, arising from the use of such substance on a continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects or to avoid the discomfort caused by its absence;

(16) "Drug enforcement agency", the Drug Enforcement Administration in the United States Department of Justice, or its successor agency;

(17) "Drug paraphernalia", all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance or an imitation controlled substance in violation of sections 195.005 to 195.425. It includes, but is not limited to:

(a) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(b) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances or imitation controlled substances;

(c) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance or an imitation controlled substance;

(d) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances or imitation controlled substances;

(e) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances or imitation controlled substances;

(f) Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances or imitation controlled substances;

(g) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

(h) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances or imitation controlled substances;

(i) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances or imitation controlled substances;

(j) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances or imitation controlled substances;

(k) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances or imitation controlled substances into the human body;

(l) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

b. Water pipes;

c. Carburetion tubes and devices;

d. Smoking and carburetion masks;

e. Roach clips meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

f. Miniature cocaine spoons and cocaine vials;

g. Chamber pipes;

h. Carburetor pipes;

i. Electric pipes;

j. Air-driven pipes;

k. Chillums;

l. Bongs;

m. Ice pipes or chillers;

(m) Substances used, intended for use, or designed for use in the manufacture of a controlled substance; In determining whether an object, product, substance or material is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

(a) Statements by an owner or by anyone in control of the object concerning its use;

(b) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance or imitation controlled substance;

(c) The proximity of the object, in time and space, to a direct violation of sections 195.005 to 195.425;

(d) The proximity of the object to controlled substances or imitation controlled substances;

(e) The existence of any residue of controlled substances or imitation controlled substances on the object;

(f) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who he knows, or should reasonably know, intend to use the object to facilitate a violation of sections 195.005 to 195.425; the innocence of an owner, or of anyone in control of the object, as to direct violation of sections 195.005 to 195.425 shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;

(g) Instructions, oral or written, provided with the object concerning its use;

(h) Descriptive materials accompanying the object which explain or depict its use;

(i) National or local advertising concerning its use;

(j) The manner in which the object is displayed for sale;

(k) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

(l) Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;

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- (m) The existence and scope of legitimate uses for the object in the community;
- (n) Expert testimony concerning its use;
- (o) The quantity, form or packaging of the product, substance or material in relation to the quantity, form or packaging associated with any legitimate use for the product, substance or material;
- (18) "Federal narcotic laws", the laws of the United States relating to controlled substances;
- (19) "Hospital", a place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care, for not less than twenty-four hours in any week, of three or more nonrelated individuals suffering from illness, disease, injury, deformity or other abnormal physical conditions; or a place devoted primarily to provide, for not less than twenty-four consecutive hours in any week, medical or nursing care for three or more nonrelated individuals. The term "hospital" does not include convalescent, nursing, shelter or boarding homes as defined in chapter 198;
- (20) "Immediate precursor", a substance which:
  - (a) The state department of health and senior services has found to be and by rule designates as being the principal compound commonly used or produced primarily for use in the manufacture of a controlled substance;
  - (b) Is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance; and
  - (c) The control of which is necessary to prevent, curtail or limit the manufacture of the controlled substance;
- (21) "Imitation controlled substance", a substance that is not a controlled substance, which by dosage unit appearance (including color, shape, size and markings), or by representations made, would lead a reasonable person to believe that the substance is a controlled substance. In determining whether the substance is an "imitation controlled substance" the court or authority concerned should consider, in addition to all other logically relevant factors, the following:
  - (a) Whether the substance was approved by the federal Food and Drug Administration for over-the-counter (nonprescription or nonlegend) sales and was sold in the federal Food and Drug Administration approved package, with the federal Food and Drug Administration approved labeling information;
  - (b) Statements made by an owner or by anyone else in control of the substance concerning the nature of the substance, or its use or effect;
  - (c) Whether the substance is packaged in a manner normally used for illicit controlled substances;
  - (d) Prior convictions, if any, of an owner, or anyone in control of the object, under state or federal law related to controlled substances or fraud;
  - (e) The proximity of the substances to controlled substances;
  - (f) Whether the consideration tendered in exchange for the noncontrolled substance substantially exceeds the reasonable value of the substance considering the actual chemical composition of the substance and, where applicable, the price at which over-the-counter substances of like chemical composition sell. An imitation controlled substance does not include a placebo or registered investigational drug either of which was manufactured, distributed, possessed or delivered in the ordinary course of professional practice or research;
- (22) "Laboratory", a laboratory approved by the department of health and senior services as proper to be entrusted with the custody of controlled substances but does not include a pharmacist who compounds controlled substances to be sold or dispensed on prescriptions;
- (23) "Manufacture", the production, preparation, propagation, compounding or processing of drug paraphernalia or of a controlled substance, or an imitation controlled substance, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. This term does not

include the preparation or compounding of a controlled substance or an imitation controlled substance or the preparation, compounding, packaging or labeling of a narcotic or dangerous drug:

(a) By a practitioner as an incident to his administering or dispensing of a controlled substance or an imitation controlled substance in the course of his professional practice, or

(b) By a practitioner or his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale;

(24) "Marijuana", all parts of the plant genus *Cannabis* in any species or form thereof, including, but not limited to *Cannabis Sativa* L., *Cannabis Indica*, *Cannabis Americana*, *Cannabis Ruderalis*, and *Cannabis Gigantea*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination;

(25) "Methamphetamine precursor drug", any drug containing ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers;

(26) "Narcotic drug", any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical analysis:

(a) Opium, opiate, and any derivative, of opium or opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation. The term does not include the isoquinoline alkaloids of opium;

(b) Coca leaves, but not including extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(c) Cocaine or any salt, isomer, or salt of isomer thereof;

(d) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof;

(e) Any compound, mixture, or preparation containing any quantity of any substance referred to in paragraphs (a) to (d) of this subdivision;

(27) "Official written order", an order written on a form provided for that purpose by the United States Commissioner of Narcotics, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided, then on an official form provided for that purpose by the department of health and senior services;

(28) "Opiate", any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes its racemic and levorotatory forms. It does not include, unless specifically controlled under section 195.017, the dextrorotatory isomer of 3-methoxy-n-methyl-morphinan and its salts (dextromethorphan);

(29) "Opium poppy", the plant of the species *Papaver somniferum* L., except its seeds;

(30) "Over-the-counter sale", a retail sale licensed pursuant to chapter 144 of a drug other than a controlled substance;

(31) "Person", an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, joint venture, association, or any other legal or commercial entity;

(32) "Pharmacist", a licensed pharmacist as defined by the laws of this state, and where the context so requires, the owner of a store or other place of business where controlled substances are compounded or dispensed by a licensed pharmacist; but nothing in sections 195.005 to 195.425 shall be construed as conferring on a person who is not registered nor licensed as a pharmacist any authority, right or privilege that is not granted to him by the pharmacy laws of this state;

(33) "Poppy straw", all parts, except the seeds, of the opium poppy, after mowing;



(34) "Possessed" or "possessing a controlled substance", a person, with the knowledge of the presence and nature of a substance, has actual or constructive possession of the substance. A person has actual possession if he has the substance on his person or within easy reach and convenient control. A person who, although not in actual possession, has the power and the intention at a given time to exercise dominion or control over the substance either directly or through another person or persons is in constructive possession of it. Possession may also be sole or joint. If one person alone has possession of a substance possession is sole. If two or more persons share possession of a substance, possession is joint;

(35) "Practitioner", a physician, dentist, optometrist, podiatrist, veterinarian, scientific investigator, pharmacy, hospital or other person licensed, registered or otherwise permitted by this state to distribute, dispense, conduct research with respect to or administer or to use in teaching or chemical analysis, a controlled substance in the course of professional practice or research in this state, or a pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research;

(36) "Production", includes the manufacture, planting, cultivation, growing, or harvesting of drug paraphernalia or of a controlled substance or an imitation controlled substance;

(37) "Registry number", the number assigned to each person registered under the federal controlled substances laws;

(38) "Sale", includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as principal, proprietor, agent, servant or employee;

(39) "State" when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America;

(40) **"Synthetic cannabinoid", includes unless specifically excepted or unless listed in another schedule, any natural or synthetic material, compound, mixture, or preparation that contains any quantity of a substance that is a cannabinoid receptor agonist, including but not limited to any substance listed in paragraph (II) of subdivision (4) of subsection 2 of section 195.017 and any analogues, homologues; isomers, whether optical, positional, or geometric; esters; ethers; salts; and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, or salts is possible within the specific chemical designation, however, it shall not include any approved pharmaceutical authorized by the United States Food and Drug Administration;**

(41) "Ultimate user", a person who lawfully possesses a controlled substance or an imitation controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household;

[(41)] (42) "Wholesaler", a person who supplies drug paraphernalia or controlled substances or imitation controlled substances that he himself has not produced or prepared, on official written orders, but not on prescriptions.

**195.017. SUBSTANCES, HOW PLACED IN SCHEDULES — LIST OF SCHEDULED SUBSTANCES — PUBLICATION OF SCHEDULES ANNUALLY — ELECTRONIC LOG OF TRANSACTIONS TO BE MAINTAINED, WHEN — CERTAIN PRODUCTS TO BE LOCATED BEHIND PHARMACY COUNTER — EXEMPTION FROM REQUIREMENTS, WHEN — RULEMAKING AUTHORITY. — 1.** The department of health and senior services shall place a substance in Schedule I if it finds that the substance:

- (1) Has high potential for abuse; and
- (2) Has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

2. Schedule I:

- (1) The controlled substances listed in this subsection are included in Schedule I;

(2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

- (a) Acetyl-alpha-methylfentanyl;
  - (b) Acetylmethadol;
  - (c) Allylprodine;
  - (d) Alphacetylmethadol;
  - (e) Alphameprodine;
  - (f) Alphamethadol;
  - (g) Alpha-methylfentanyl;
  - (h) Alpha-methylthiofentanyl;
  - (i) Benzethidine;
  - (j) Betacetylmethadol;
  - (k) Beta-hydroxyfentanyl;
  - (l) Beta-hydroxy-3-methylfentanyl;
  - (m) Betameprodine;
  - (n) Betamethadol;
  - (o) Betaprodine;
  - (p) Clonitazene;
  - (q) Dextromoramide;
  - (r) Diampromide;
  - (s) Diethylthiambutene;
  - (t) Difenoxin;
  - (u) Dimenoxadol;
  - (v) Dimepheptanol;
  - (w) Dimethylthiambutene;
  - (x) Dioxaphetyl butyrate;
  - (y) Dipipanone;
  - (z) Ethylmethylthiambutene;
  - (aa) Etonitazene;
  - (bb) Etoxidine;
  - (cc) Furethidine;
  - (dd) Hydroxypethidine;
  - (ee) Ketobemidone;
  - (ff) Levomoramide;
  - (gg) Levophenacymorphan;
  - (hh) 3-Methylfentanyl;
  - (ii) 3-Methylthiofentanyl;
  - (jj) Morpheridine;
  - (kk) MPPP;
  - (ll) Noracymethadol;
  - (mm) Norlevorphanol;
  - (nn) Normethadone;
  - (oo) Norpipanone;
  - (pp) Para-fluorofentanyl;
  - (qq) PEPAP;
  - (rr) Phenadoxone;
  - (ss) Phenampromide;
  - (tt) Phenomorphan;
  - (uu) Phenoperidine;
  - (vv) Piritramide;
-

- (ww) Proheptazine;
- (xx) Properidine;
- (yy) Propiram;
- (zz) Racemoramide;
- (aaa) Thiofentanyl;
- (bbb) Tilidine;
- (ccc) Trimeperidine;

(3) Any of the following opium derivatives, their salts, isomers and salts of isomers unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

- (a) Acetorphine;
- (b) Acetyldihydrocodeine;
- (c) Benzylmorphine;
- (d) Codeine methylbromide;
- (e) Codeine-N-Oxide;
- (f) Cyprenorphine;
- (g) Desomorphine;
- (h) Dihydromorphine;
- (i) Drotebanol;
- (j) Etorphine (except hydrochloride salt);
- (k) Heroin;
- (l) Hydromorphenol;
- (m) Methyldesorphine;
- (n) Methyldihydromorphine;
- (o) Morphine methylbromide;
- (p) Morphine methylsulfonate;
- (q) Morphine-N-Oxide;
- (r) Myorphine;
- (s) Nicocodeine;
- (t) Nicomorphine;
- (u) Normorphine;
- (v) Pholcodine;
- (w) Thebacon;

(4) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (a) 4-bromo-2, 5-dimethoxyamphetamine;
- (b) 4-bromo-2, 5-dimethoxyphenethylamine;
- (c) 2,5-dimethoxyamphetamine;
- (d) 2,5-dimethoxy-4-ethylamphetamine;
- (e) 2,5-dimethoxy-4-(n)-propylthiophenethylamine;
- (f) 4-methoxyamphetamine;
- (g) 5-methoxy-3,4-methylenedioxyamphetamine;
- (h) 4-methyl-2, 5-dimethoxyamphetamine;
- (i) 3,4-methylenedioxyamphetamine;
- (j) 3,4-methylenedioxymethamphetamine;
- (k) 3,4-methylenedioxy-N-ethylamphetamine;
- (l) N-hydroxy-3, 4-methylenedioxyamphetamine;
- (m) 3,4,5-trimethoxyamphetamine;

(n) 5-MeO-DMT or 5-methoxy-N,N-dimethyltryptamine, its isomers, salts, and salts of isomers;

(o) Alpha-ethyltryptamine;

(p) Alpha-methyltryptamine;

(q) Bufotenine;

[(r) Dexanabinol (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;

(s)] (r) Diethyltryptamine;

[(t)] (s) Dimethyltryptamine;

[(u)] (t) 5-methoxy-N,N-diisopropyltryptamine;

[(v)] (u) Ibogaine;

[(w) Indole, or 1-butyl-3(1-naphthoyl)indole;

(x) Indole, or 1-pentyl-3(1-naphthoyl)indole;

(y)] (v) Lysergic acid diethylamide;

[(z)] (w) Marijuana or marihuana;

[(aa)] (x) Mescaline;

[(bb)] (y) Parahexyl;

[(cc)] (z) Peyote, to include all parts of the plant presently classified botanically as *Lophophora Williamsii* Lemaire, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seed or extracts;

[(dd) Phenol, CP 47, 497 & homologues, or 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol), where side chain n=5, and homologues where side chain n-4,6, or 7;

(ee)] (aa) N-ethyl-3-piperidyl benzilate;

[(ff)] (bb) N-methyl-3-piperidyl benzilate;

[(gg)] (cc) Psilocybin;

[(hh)] (dd) Psilocyn;

[(ii)] (ee) Tetrahydrocannabinols naturally contained in a plant of the genus *Cannabis* (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of such plant, or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following:

a. 1 cis or trans tetrahydrocannabinol, and their optical isomers;

b. 6 cis or trans tetrahydrocannabinol, and their optical isomers;

c. 3,4 cis or trans tetrahydrocannabinol, and their optical isomers;

d. Any compounds of these structures, regardless of numerical designation of atomic positions covered;

[(jj)] (ff) Ethylamine analog of phencyclidine;

[(kk)] (gg) Pyrrolidine analog of phencyclidine;

[(ll)] (hh) Thiophene analog of phencyclidine;

[(mm)] (ii) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine;

[(nn)] (jj) *Salvia divinorum*;

[(oo)] (kk) Salvinorin A;

(ll) **Synthetic cannabinoids:**

a. Any compound structurally derived from 3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane by substitution at the nitrogen atom of the indole ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent, whether or not substituted in the naphthyl ring to any extent. Including, but not limited to:

- (i) JWH-007, or 1-pentyl-2-methyl-3-(1-naphthoyl)indole;
- (ii) JWH-015, or 1-propyl-2-methyl-3-(1-naphthoyl)indole;
- (iii) JWH-018, or 1-pentyl-3-(1-naphthoyl)indole;
- (iv) JWH-019, or 1-hexyl-3-(1-naphthoyl)indole;
- (v) JWH-073, or 1-butyl-3-(1-naphthoyl)indole;
- (vi) JWH-081, or 1-pentyl-3-(4-methoxy-1-naphthoyl)indole;
- (vii) JWH-098, or 1-pentyl-2-methyl-3-(4-methoxy-1-naphthoyl)indole;
- (viii) JWH-122, or 1-pentyl-3-(4-methyl-1-naphthoyl)indole;
- (ix) JWH-164, or 1-pentyl-3-(7-methoxy-1-naphthoyl)indole;
- (x) JWH-200, or 1-(2-(4-(morpholinyl)ethyl))-3-(1-naphthoyl)indole;
- (xi) JWH-210, or 1-pentyl-3-(4-ethyl-1-naphthoyl)indole;
- (xii) JWH-398, or 1-pentyl-3-(4-chloro-1-naphthoyl)indole;

b. Any compound structurally derived from 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent;

c. Any compound structurally derived from 1-(1-naphthylmethyl)indene by substitution at the 3-position of the indene ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent;

d. Any compound structurally derived from 3-phenylacetylindole by substitution at the nitrogen atom of the indole ring with alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent. Including, but not limited to:

- (i) JWH-201, or 1-pentyl-3-(4-methoxyphenylacetyl)indole;
- (ii) JWH-203, or 1-pentyl-3-(2-chlorophenylacetyl)indole;
- (iii) JWH-250, or 1-pentyl-3-(2-methoxyphenylacetyl)indole;
- (iv) JWH-251, or 1-pentyl-3-(2-methylphenylacetyl)indole;
- (v) RCS-8, or 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole;

e. Any compound structurally derived from 2-(3-hydroxycyclohexyl)phenol by substitution at the 5-position of the phenolic ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not substituted in the cyclohexyl ring to any extent. Including, but not limited to:

(i) CP 47,497 & homologues, or 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol, where side chain n=5, and homologues where side chain n=4,6, or 7;

f. Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Including, but not limited to:

- (i) AM-694, or 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole;
- (ii) RCS-4, or 1-pentyl-3-(4-methoxybenzoyl)indole;

g. CP 50,556-1, or [(6S,6aR,9R,10aR)-9-hydroxy-6-methyl-3-[(2R)-5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahydrophenanthridin-1-yl] acetate;

h. HU-210, or (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyl-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-yl)-

- i. **HU-211, or Dexanabinol, (6aS,10aS)-9- (hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)- 6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;**
- j. **CP 50,556-1, or [(6S,6aR,9R,10aR)-9-hydroxy-6- methyl-3-[(2R)-5-phenylpentan-2-yl]oxy- 5,6,6a,7,8,9,10,10a-octahydrophenanthridin-1-yl] acetate;**
- k. **Dimethylheptylpyran, or DMHP;**

(5) Any material, compound, mixture or preparation containing any quantity of the following substances having a depressant effect on the central nervous system, including their salts, isomers and salts of isomers whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

- (a) Gamma-hydroxybutyric acid;
- (b) Mecloqualone;
- (c) Methaqualone;

(6) Any material, compound, mixture or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers and salts of isomers:

- (a) Aminorex;
- (b) N-benzylpiperazine;
- (c) Cathinone;
- (d) Fenethylamine;
- (e) **3-Fluoromethcathinone;**
- (f) **4-Fluoromethcathinone;**
- (g) **Mephedrone, or 4-methylmethcathinone;**

[(e)] (h) Methcathinone;

(i) **4-methoxymethcathinone;**

[(f)] (j) **(+,-)cis-4-methylaminorex ((+,-)cis- 4,5-dihydro-4-methyl-5-phenyl-2-oxazoline);**

(k) **Methylenedioxypyrovalerone, MDPV, or (1-(1,3- Benzodioxol-5-yl)-2-(1-pyrrolidinyl)-1-pentanone;**

(l) **Methylone, or 3,4-Methylenedioxymethcathinone;**

(m) **4-Methyl-alpha-pyrrolidinobutophenone, or MPBP;**

[(g)] (n) N-ethylamphetamine;

[(h)] (o) N,N-dimethylamphetamine;

(7) A temporary listing of substances subject to emergency scheduling under federal law shall include any material, compound, mixture or preparation which contains any quantity of the following substances:

(a) N-(1-benzyl-4-piperidyl)-N phenylpropanamide (benzylfentanyl), its optical isomers, salts and salts of isomers;

(b) N-(1-(2-thienyl)methyl-4-piperidyl)-N-phenylpropanamide (thienylfentanyl), its optical isomers, salts and salts of isomers;

(8) Khat, to include all parts of the plant presently classified botanically as *catha edulis*, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seed or extracts.

3. The department of health and senior services shall place a substance in Schedule II if it finds that:

(1) The substance has high potential for abuse;

(2) The substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and

(3) The abuse of the substance may lead to severe psychic or physical dependence.

4. The controlled substances listed in this subsection are included in Schedule II:

(1) Any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(a) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextrorphan, nalbuphine, nalmefene, naloxone and naltrexone, and their respective salts but including the following:

- a. Raw opium;
- b. Opium extracts;
- c. Opium fluid;
- d. Powdered opium;
- e. Granulated opium;
- f. Tincture of opium;
- g. Codeine;
- h. Ethylmorphine;
- i. Etorphine hydrochloride;
- j. Hydrocodone;
- k. Hydromorphone;
- l. Metopon;
- m. Morphine;
- n. Oxycodone;
- o. Oxymorphone;
- p. Thebaine;

(b) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in this subdivision, but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

(d) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine;

(e) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrene alkaloids of the opium poppy);

(2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

- (a) Alfentanil;
- (b) Alphaprodine;
- (c) Anileridine;
- (d) Bezitramide;
- (e) Bulk dextropropoxyphene;
- (f) Carfentanil;
- (g) Dihydrocodeine;
- (h) Diphenoxylate;
- (i) Fentanyl;
- (j) Isomethadone;
- (k) Levo-alphacetylmethadol;
- (l) Levomethorphan;
- (m) Levorphanol;
- (n) Metazocine;
- (o) Methadone;
- (p) Meperidine;
- (q) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenylbutane;
- (r) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane — carboxylic acid;

- (s) Pethidine (meperidine);
- (t) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- (u) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- (v) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (w) Phenazocine;
- (x) Piminodine;
- (y) Racemethorphan;
- (z) Racemorphran;
- (aa) Remifentanil;
- (bb) Sufentanil;
- (cc) Tapentadol;
- (3) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:
  - (a) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
  - (b) Lisdexamphetamine, its salts, isomers, and salts of its isomers;
  - (c) Methamphetamine, its salts, isomers, and salts of its isomers;
  - (d) Phenmetrazine and its salts;
  - (e) Methylphenidate;
- (4) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:
  - (a) Amobarbital;
  - (b) Glutethimide;
  - (c) Pentobarbital;
  - (d) Phencyclidine;
  - (e) Secobarbital;
- (5) Any material or compound which contains any quantity of nabilone;
- (6) Any material, compound, mixture, or preparation which contains any quantity of the following substances:
  - (a) Immediate precursor to amphetamine and methamphetamine: Phenylacetone;
  - (b) Immediate precursors to phencyclidine (PCP):
    - a. 1-phenylcyclohexylamine;
    - b. 1-piperidinocyclohexanecarbonitrile (PCC);
- (7) Any material, compound, mixture, or preparation which contains any quantity of the following alkyl nitrites:
  - (a) Amyl nitrite;
  - (b) Butyl nitrite.
- 5. The department of health and senior services shall place a substance in Schedule III if it finds that:
  - (1) The substance has a potential for abuse less than the substances listed in Schedules I and II;
  - (2) The substance has currently accepted medical use in treatment in the United States; and
  - (3) Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.
- 6. The controlled substances listed in this subsection are included in Schedule III:
  - (1) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:
    - (a) Benzphetamine;
    - (b) Chlorphentermine;



- (c) Clortermine;
- (d) Phendimetrazine;
- (2) Any material, compound, mixture or preparation which contains any quantity or salt of the following substances or salts having a depressant effect on the central nervous system:
  - (a) Any material, compound, mixture or preparation which contains any quantity or salt of the following substances combined with one or more active medicinal ingredients:
    - a. Amobarbital;
    - b. Secobarbital;
    - c. Pentobarbital;
  - (b) Any suppository dosage form containing any quantity or salt of the following:
    - a. Amobarbital;
    - b. Secobarbital;
    - c. Pentobarbital;
  - (c) Any substance which contains any quantity of a derivative of barbituric acid or its salt;
  - (d) Chlorhexadol;
  - (e) Embutramide;
  - (f) Gamma hydroxybutyric acid and its salts, isomers, and salts of isomers contained in a drug product for which an application has been approved under Section 505 of the federal Food, Drug, and Cosmetic Act;
  - (g) Ketamine, its salts, isomers, and salts of isomers;
  - (h) Lysergic acid;
  - (i) Lysergic acid amide;
  - (j) Methypylon;
  - (k) Sulfondiethylmethane;
  - (l) Sulfonethylmethane;
  - (m) Sulfonmethane;
  - (n) Tiletamine and zolazepam or any salt thereof;
- (3) Nalorphine;
- (4) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs or their salts:
  - (a) Not more than 1.8 grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;
  - (b) Not more than 1.8 grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
  - (c) Not more than three hundred milligrams of hydrocodone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;
  - (d) Not more than three hundred milligrams of hydrocodone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;
  - (e) Not more than 1.8 grams of dihydrocodeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;
  - (f) Not more than three hundred milligrams of ethylmorphine per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
  - (g) Not more than five hundred milligrams of opium per one hundred milliliters or per one hundred grams or not more than twenty-five milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;

(h) Not more than fifty milligrams of morphine per one hundred milliliters or per one hundred grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts, as set forth in subdivision (6) of this subsection; buprenorphine;

(6) Anabolic steroids. Any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone) that promotes muscle growth, except an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for that administration. If any person prescribes, dispenses, or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this [paragraph] **subdivision**. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any quantity of the following substances, including its salts, esters and ethers:

- (a) 3 $\alpha$ ,17 $\alpha$ -dihydroxy-5 $\alpha$ -androstane;
- (b) 3 $\alpha$ ,17 $\alpha$ -dihydroxy-5 $\alpha$ -androstane;
- (c) 5 $\alpha$ -androstan-3,17-dione;
- (d) 1-androstenediol (3 $\alpha$ ,17 $\alpha$ -dihydroxy-5 $\alpha$ -androst-1-ene);
- (e) 1-androstenediol (3 $\alpha$ ,17 $\alpha$ -dihydroxy-5 $\alpha$ -androst-1-ene);
- (f) 4-androstenediol (3 $\alpha$ ,17 $\alpha$ -dihydroxy-androst-4-ene);
- (g) 5-androstenediol (3 $\alpha$ ,17 $\alpha$ -dihydroxy-androst-5-ene);
- (h) 1-androstenedione ([5 $\alpha$ ]-androst-1-en-3,17-dione);
- (i) 4-androstenedione (androst-4-en-3,17-dione);
- (j) 5-androstenedione (androst-5-en-3,17-dione);
- (k) Bolasterone (7 $\alpha$ , 17 $\alpha$ -dimethyl-17 $\alpha$ -hydroxyandrost-4-en-3-one);
- (l) Boldenone (17 $\alpha$ -hydroxyandrost-1,4,-diene-3-one);
- (m) Boldione;
- (n) Calusterone (7 $\alpha$ , 17 $\alpha$ -dimethyl-17 $\alpha$ -hydroxyandrost-4-en-3-one);
- (o) Clostebol (4-chloro-17 $\alpha$ -hydroxyandrost-4-en-3-one);
- (p) Dehydrochloromethyltestosterone (4-chloro-17 $\alpha$ -hydroxy-17 $\alpha$ -methyl-androst-1,4-dien-3-one);
- (q) Desoxymethyltestosterone;
- (r)  $\Delta$ 1-dihydrotestosterone (a.k.a. '1-testosterone')(17 $\alpha$ -hydroxy-5 $\alpha$ -androst-1-en-3-one);
- (s) 4-dihydrotestosterone (17 $\alpha$ -hydroxy-androstan-3-one);
- (t) Drostanolone (17 $\alpha$ -hydroxy-2 $\alpha$ -methyl-5 $\alpha$ -androstan-3-one);
- (u) Ethylestrenol (17 $\alpha$ -ethyl-17 $\alpha$ -hydroxyestr-4-ene);
- (v) Fluoxymesterone (9-fluoro-17 $\alpha$ -methyl-11 $\beta$ ,17 $\alpha$ -dihydroxyandrost-4-en-3-one);
- (w) Formebolone (2-formyl-17 $\alpha$ -methyl-11 $\beta$ ,17 $\alpha$ -dihydroxyandrost-1,4-dien-3-one);
- (x) Furazabol (17 $\alpha$ -methyl-17 $\alpha$ -hydroxyandrostano[2,3-c]-furan);
- (y) 13 $\alpha$ -ethyl-17 $\alpha$ -hydroxygon-4-en-3-one;
- (z) 4-hydroxytestosterone (4,17 $\alpha$ -dihydroxy-androst-4-en-3-one);
- (aa) 4-hydroxy-19-nortestosterone (4,17 $\alpha$ -dihydroxy-estr-4-en-3-one);
- (bb) Mestanolone (17 $\alpha$ -methyl-17 $\alpha$ -hydroxy-5-androstan-3-one);
- (cc) Mesterolone (1 $\alpha$ -methyl-17 $\alpha$ -hydroxy-[5 $\alpha$ ]-androstan-3-one);
- (dd) Methandienone (17 $\alpha$ -methyl-17 $\alpha$ -hydroxyandrost-1,4-dien-3-one);
- (ee) Methandriol (17 $\alpha$ -methyl-3 $\alpha$ ,17 $\alpha$ -dihydroxyandrost-5-ene);
- (ff) Methenolone (1-methyl-17 $\alpha$ -hydroxy-5 $\alpha$ -androst-1-en-3-one);
- (gg) 17 $\alpha$ -methyl-3 $\alpha$ ,17 $\alpha$ -dihydroxy-5 $\alpha$ -androstane);
- (hh) 17 $\alpha$ -methyl-3 $\alpha$ ,17 $\alpha$ -dihydroxy-5 $\alpha$ -androstane);
- (ii) 17 $\alpha$ -methyl-3 $\alpha$ ,17 $\alpha$ -dihydroxyandrost-4-ene;
- (jj) 17 $\alpha$ -methyl-4-hydroxynandrolone (17 $\alpha$ -methyl-4-hydroxy-17 $\alpha$ -hydroxyestr-4-en-3-one);

- (kk) Methyldienolone (17 $\alpha$ -methyl-17 $\beta$ -hydroxyestra-4,9(10)-dien-3-one);
- (ll) Methyltrienolone (17 $\alpha$ -methyl-17 $\beta$ -hydroxyestra-4,9-11-trien-3-one);
- (mm) Methyltestosterone (17 $\alpha$ -methyl-17 $\beta$ -hydroxyandrost-4-en-3-one);
- (nn) Mibolerone (7 $\alpha$ ,17 $\alpha$ -dimethyl-17 $\beta$ -hydroxyestr-4-en-3-one);
- (oo) 17 $\alpha$ -methyl- $\Delta$ 1-dihydrotestosterone (17 $\beta$ -hydroxy-17 $\alpha$ -methyl-5 $\alpha$ -androst-1-en-3-one) (a.k.a. '17- $\alpha$ - methyl-1-testosterone');
- (pp) Nandrolone (17 $\beta$ -hydroxyestr-4-ene-3-one);
- (qq) 19-nor-4-androstenediol (3 $\alpha$ ,17 $\beta$ -dihydroxyestr-4-ene);
- (rr) 19-nor-4-androstenediol (3 $\alpha$ ,17 $\beta$ -dihydroxyestr-4-ene);
- (ss) 19-nor-4,9(10)-androstadienedione;
- (tt) 19-nor-5-androstenediol (3 $\alpha$ ,17 $\beta$ -dihydroxyestr-5-ene);
- (uu) 19-nor-5-androstenediol (3 $\alpha$ ,17 $\beta$ -dihydroxyestr-5-ene);
- (vv) 19-nor-4-androstenedione (estr-4-en-3,17-dione);
- (ww) 19-nor-5-androstenedione (estr-5-en-3,17-dione);
- (xx) Norbolethone (13 $\alpha$ ,17 $\alpha$ -diethyl-17 $\beta$ -hydroxygon-4-en-3-one);
- (yy) Norclostebol (4-chloro-17 $\beta$ -hydroxyestr-4-en-3-one);
- (zz) Norethandrolone (17 $\alpha$ -ethyl-17 $\beta$ -hydroxyestr-4-en-3-one);
- (aaa) Normethandrolone (17 $\alpha$ -methyl-17 $\beta$ -hydroxyestr-4-en-3-one);
- (bbb) Oxandrolone (17 $\alpha$ -methyl-17 $\beta$ -hydroxy-2-oxa-[5 $\alpha$ ]-androstan-3-one);
- (ccc) Oxymesterone (17 $\alpha$ -methyl-4,17 $\beta$ -dihydroxyandrost-4-en-3-one);
- (ddd) Oxymethalone (17 $\alpha$ -methyl-2-hydroxymethylene- 17 $\beta$ -hydroxy-[5 $\alpha$ ]-androstan-3-one);
- (eee) Stanozolol (17 $\alpha$ -methyl-17 $\beta$ -hydroxy-[5 $\alpha$ ]-androst-2-eno[3,2-c]-pyraz ole);
- (fff) Stenbolone (17 $\beta$ -hydroxy-2-methyl-[5 $\alpha$ ]-androst-1-en-3-one);
- (ggg) Testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);
- (hhh) Testosterone (17 $\beta$ -hydroxyandrost-4-en-3-one);
- (iii) Tetrahydrogestrinone (13 $\alpha$ ,17 $\alpha$ -diethyl-17 $\beta$ -hydroxygon-4,9,11-trien-3-one);
- (jjj) Trenbolone (17 $\beta$ -hydroxyestr-4,9,11-trien-3-one);
- (kkk) Any salt, ester, or ether of a drug or substance described or listed in this subdivision, except an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for that administration;

(7) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved drug product;

(8) The department of health and senior services may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subdivisions (1) and (2) of this subsection from the application of all or any part of sections 195.010 to 195.320 if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

7. The department of health and senior services shall place a substance in Schedule IV if it finds that:

- (1) The substance has a low potential for abuse relative to substances in Schedule III;
- (2) The substance has currently accepted medical use in treatment in the United States; and
- (3) Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III.

8. The controlled substances listed in this subsection are included in Schedule IV:

(1) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(a) Not more than one milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(b) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane);

(c) Any of the following limited quantities of narcotic drugs or their salts, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

a. Not more than two hundred milligrams of codeine per one hundred milliliters or per one hundred grams;

b. Not more than one hundred milligrams of dihydrocodeine per one hundred milliliters or per one hundred grams;

c. Not more than one hundred milligrams of ethylmorphine per one hundred milliliters or per one hundred grams;

(2) Any material, compound, mixture or preparation containing any quantity of the following substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (a) Alprazolam;
  - (b) Barbitol;
  - (c) Bromazepam;
  - (d) Camazepam;
  - (e) Chloral betaine;
  - (f) Chloral hydrate;
  - (g) Chlordiazepoxide;
  - (h) Clobazam;
  - (i) Clonazepam;
  - (j) Clorazepate;
  - (k) Clotiazepam;
  - (l) Cloxazolam;
  - (m) Delorazepam;
  - (n) Diazepam;
  - (o) Dichloralphenazone;
  - (p) Estazolam;
  - (q) Ethchlorvynol;
  - (r) Ethinamate;
  - (s) Ethyl loflazepate;
  - (t) Fludiazepam;
  - (u) Flunitrazepam;
  - (v) Flurazepam;
  - (w) Fospropofol;
  - (x) Halazepam;
  - (y) Haloxazolam;
  - (z) Ketazolam;
  - (aa) Loprazolam;
  - (bb) Lorazepam;
  - (cc) Lormetazepam;
  - (dd) Mebutamate;
  - (ee) Medazepam;
  - (ff) Meprobamate;
  - (gg) Methohexital;
  - (hh) Methylphenobarbital (mephobarbital);
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- (ii) Midazolam;
- (jj) Nimetazepam;
- (kk) Nitrazepam;
- (ll) Nordiazepam;
- (mm) Oxazepam;
- (nn) Oxazolam;
- (oo) Paraldehyde;
- (pp) Petrichloral;
- (qq) Phenobarbital;
- (rr) Pinazepam;
- (ss) Prazepam;
- (tt) Quazepam;
- (uu) Temazepam;
- (vv) Tetrazepam;
- (ww) Triazolam;
- (xx) Zaleplon;
- (yy) Zolpidem;
- (zz) Zopiclone;

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substance including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible: fenfluramine;

(4) Any material, compound, mixture or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers and salts of isomers:

- (a) Cathine ((+)-norpseudoephedrine);
- (b) Diethylpropion;
- (c) Fencamfamin;
- (d) Fenproporex;
- (e) Mazindol;
- (f) Mefenorex;
- (g) Modafinil;
- (h) Pemoline, including organometallic complexes and chelates thereof;
- (i) Phentermine;
- (j) Pipradrol;
- (k) Sibutramine;
- (l) SPA ((-)-1-dimethylamino-1,2-diphenylethane);

(5) Any material, compound, mixture or preparation containing any quantity of the following substance, including its salts:

- (a) butorphanol;
- (b) pentazocine;

(6) Ephedrine, its salts, optical isomers and salts of optical isomers, when the substance is the only active medicinal ingredient;

(7) The department of health and senior services may except by rule any compound, mixture, or preparation containing any depressant substance listed in subdivision (1) of this subsection from the application of all or any part of sections 195.010 to 195.320 if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

9. The department of health and senior services shall place a substance in Schedule V if it finds that:

(1) The substance has low potential for abuse relative to the controlled substances listed in Schedule IV;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) The substance has limited physical dependence or psychological dependence liability relative to the controlled substances listed in Schedule IV.

10. The controlled substances listed in this subsection are included in Schedule V:

(1) Any compound, mixture or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(a) Not more than two and five-tenths milligrams of diphenoxylate and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(b) Not more than one hundred milligrams of opium per one hundred milliliters or per one hundred grams;

(c) Not more than five-tenths milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(2) Any material, compound, mixture or preparation which contains any quantity of the following substance having a stimulant effect on the central nervous system including its salts, isomers and salts of isomers: pyrovalerone;

(3) Any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine or its salts or optical isomers, or salts of optical isomers or any compound, mixture, or preparation containing any detectable quantity of ephedrine or its salts or optical isomers, or salts of optical isomers;

(4) Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts:

(a) Lacosamide;

(b) Pregabalin.

11. If any compound, mixture, or preparation as specified in subdivision (3) of subsection 10 of this section is dispensed, sold, or distributed in a pharmacy without a prescription:

(1) All packages of any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers or ephedrine, its salts or optical isomers, or salts of optical isomers, shall be offered for sale only from behind a pharmacy counter where the public is not permitted, and only by a registered pharmacist or registered pharmacy technician; and

(2) Any person purchasing, receiving or otherwise acquiring any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers or ephedrine, its salts or optical isomers, or salts of optical isomers shall be at least eighteen years of age; and

(3) The pharmacist, intern pharmacist, or registered pharmacy technician shall require any person, prior to their purchasing, receiving or otherwise acquiring such compound, mixture, or preparation to furnish suitable photo identification that is issued by a state or the federal government or a document that, with respect to identification, is considered acceptable and showing the date of birth of the person;

(4) The seller shall deliver the product directly into the custody of the purchaser.

12. Pharmacists, intern pharmacists, and registered pharmacy technicians shall implement and maintain an electronic log of each transaction. Such log shall include the following information:

(1) The name, address, and signature of the purchaser;

(2) The amount of the compound, mixture, or preparation purchased;

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- (3) The date and time of each purchase; and
- (4) The name or initials of the pharmacist, intern pharmacist, or registered pharmacy technician who dispensed the compound, mixture, or preparation to the purchaser.
- 13. Each pharmacy shall submit information regarding sales of any compound, mixture, or preparation as specified in subdivision (3) of subsection 10 of this section in accordance with transmission methods and frequency established by the department by regulation;
- 14. No person shall dispense, sell, purchase, receive, or otherwise acquire quantities greater than those specified in this chapter.
- 15. All persons who dispense or offer for sale pseudoephedrine and ephedrine products in a pharmacy shall ensure that all such products are located only behind a pharmacy counter where the public is not permitted.
- 16. Any person who knowingly or recklessly violates the provisions of subsections 11 to 15 of this section is guilty of a class A misdemeanor.
- 17. The scheduling of substances specified in subdivision (3) of subsection 10 of this section and subsections 11, 12, 14, and 15 of this section shall not apply to any compounds, mixtures, or preparations that are in liquid or liquid-filled gel capsule form or to any compound, mixture, or preparation specified in subdivision (3) of subsection 10 of this section which must be dispensed, sold, or distributed in a pharmacy pursuant to a prescription.
- 18. The manufacturer of a drug product or another interested party may apply with the department of health and senior services for an exemption from this section. The department of health and senior services may grant an exemption by rule from this section if the department finds the drug product is not used in the illegal manufacture of methamphetamine or other controlled or dangerous substances. The department of health and senior services shall rely on reports from law enforcement and law enforcement evidentiary laboratories in determining if the proposed product can be used to manufacture illicit controlled substances.
- 19. The department of health and senior services shall revise and republish the schedules annually.
- 20. The department of health and senior services shall promulgate rules under chapter 536 regarding the security and storage of Schedule V controlled substances, as described in subdivision (3) of subsection 10 of this section, for distributors as registered by the department of health and senior services.
- 21. Logs of transactions required to be kept and maintained by this section and section 195.417 shall create a rebuttable presumption that the person whose name appears in the logs is the person whose transactions are recorded in the logs.

**195.022. CHEMICAL SUBSTANCES STRUCTURALLY SIMILAR TO SCHEDULE I CONTROLLED SUBSTANCES TO BE TREATED AS SCHEDULE I CONTROLLED SUBSTANCE.** — [A controlled substance analogue shall, to the extent intended for human consumption, be treated, for the purposes of any state law, as a controlled substance in schedule I] **Any analogue or homologue of a Schedule I controlled substance shall be treated, for the purposes of any state law, as a controlled substance in Schedule I.**

**195.202. POSSESSION OR CONTROL OF A CONTROLLED SUBSTANCE, EXCEPTION, PENALTY.** — 1. Except as authorized by sections 195.005 to 195.425, it is unlawful for any person to possess or have under his control a controlled substance.

2. Any person who violates this section with respect to any controlled substance except thirty-five grams or less of marijuana[, Dexanabinol, (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyl-2-yl)-6a,7,10,10 a-tetrahydrobenzo[c]chromen-1-ol, Indole, or 1-butyl-3-(1-naphthoyl)indole, Indole, or 1-pentyl-3-(1-naphthoyl)indole, and Phenol, CP 47, 497 & homologues, or 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)p henol], where side chain n=5, and

homologues where side chain n-4,6, or 7] **or any synthetic cannabinoid** is guilty of a class C felony.

3. Any person who violates this section with respect to not more than thirty-five grams of marijuana [, Dexanabinol, (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol, Indole, or 1-butyl-3(1-naphthoyl)indole, Indole, or 1-pentyl-3(1-naphthoyl)indole, and Phenol, CP 47, 497 & homologues, or 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol), where side chain n=5, and homologues where side chain n-4,6, or 7] **or any synthetic cannabinoid** is guilty of a class A misdemeanor.

**195.217. CRIME OF DISTRIBUTION OF A CONTROLLED SUBSTANCE NEAR A PARK, PENALTY.** — 1. A person commits the offense of distribution of a controlled substance near a park if such person violates section 195.211 by unlawfully distributing or delivering heroin, cocaine, **cocaine base**, LSD, amphetamine, or methamphetamine to a person in or on, or within one thousand feet of, the real property comprising a public park, state park, county park, or municipal park or a public or private park designed for public recreational purposes, as park is defined in section 253.010.

2. Distribution of a controlled substance near a park is a class A felony.

Approved July 14, 2011

## HB 648 [SS#2 HB 648]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

### Changes the laws regarding individuals with disabilities

AN ACT to repeal sections 8.241, 178.900, 189.010, 189.065, 192.005, 198.012, 205.968, 208.151, 208.275, 208.955, 210.496, 210.900, 211.031, 211.202, 211.203, 211.206, 211.207, 211.447, 402.210, 453.070, 475.121, 475.355, 476.537, 552.015, 552.020, 552.030, 552.040, 630.003, 630.005, 630.010, 630.053, 630.095, 630.097, 630.120, 630.165, 630.167, 630.183, 630.192, 630.210, 630.335, 630.405, 630.425, 630.510, 630.605, 630.610, 630.635, 630.705, 630.715, 630.735, 632.005, 632.105, 632.110, 632.115, 632.120, 632.370, 632.380, 633.005, 633.010, 633.020, 633.029, 633.030, 633.045, 633.050, 633.110, 633.115, 633.120, 633.125, 633.130, 633.135, 633.140, 633.145, 633.150, 633.155, 633.160, 633.180, 633.185, 633.190, 633.210, 633.300, 633.303, and 633.309, RSMo, and to enact in lieu thereof eighty-one new sections relating to individuals with disabilities, with existing penalty provisions.

#### SECTION

- A. Enacting clause.
- 8.241. Certain land in St. Louis City — restrictions.
- 178.900. Definitions.
- 189.010. Definitions — funds intended for poor patients — patients that are ineligible.
- 189.065. Special need areas, expenditures for.
- 192.005. Department of health and senior services created — division of health abolished — duties.
- 198.012. Provisions of sections 198.003 to 198.136 not to apply, when — exempt entities may be licensed.
- 205.968. Facilities authorized — persons to be served, limitations, definitions.
- 208.151. Medical assistance, persons eligible — rulemaking authority.
- 208.275. Coordinating council on special transportation, creation — members, qualifications, appointment, terms, expenses — staff — powers — duties.
- 208.955. Committee established, members, duties — issuance of findings — subcommittee designated, duties, members.
- 210.496. Refusal to issue, suspension or revocation of licenses — grounds.



- 210.900. Definitions.
- 211.031. Juvenile court to have exclusive jurisdiction, when — exceptions — home schooling, attendance violations, how treated.
- 211.202. Mentally disordered children, evaluation — disposition — review by court.
- 211.203. Developmentally disabled children, evaluation — disposition — review by court.
- 211.206. Duties of department of mental health — discharge by department — notice — jurisdiction of court.
- 211.207. Youth services division may request evaluation — procedure after evaluation — transfer of custody.
- 211.447. Petition to terminate parental rights filed, when — juvenile court may terminate parental rights, when — investigation to be made — grounds for termination.
- 402.210. Board of trustees — members, appointment, term, qualifications, expenses — annual accounting — rules and regulations.
- 453.070. Investigations precondition for adoption — contents of investigation report — how conducted — assessments of adoptive parents, contents — waiving of investigation, when — fees — preference to foster parents, when.
- 475.121. Admission to mental health or developmental disability facilities.
- 475.355. Temporary emergency detention.
- 476.537. Judge leaving no surviving spouse or surviving spouse dies — dependents to receive benefits.
- 552.015. Evidence of mental disease or defect, admissible, when.
- 552.020. Lack of mental capacity bar to trial or conviction — psychiatric examination, when, report of — plea of not guilty by reason of mental disease, supporting pretrial evaluation, conditions of release — commitment to hospital, when — statements of accused inadmissible, when — jury may be impaneled to determine mental fitness.
- 552.030. Mental disease or defect, not guilty plea based on, pretrial investigation — evidence — notice of defense — examination, reports confidential — statements not admissible, exception — presumption of competency — verdict contents — order of commitment to department.
- 552.040. Definitions — acquittal based on mental disease or defect, commitment to state hospital required — immediate conditional release — conditional or unconditional release, when — prior commitment, authority to revoke — applications for release, notice, burden of persuasion, criteria — hearings required, when — denial, reapplication — escape, notice — additional criteria for release.
- 630.003. Department created — state mental health commission — Missouri institute of mental health — transfers of powers and agencies.
- 630.005. Definitions.
- 630.010. Mental health commission — members, terms, qualifications, appointment, vacancies, compensation — organization, meetings.
- 630.053. Mental health earnings fund — uses — rules and regulations, procedure.
- 630.095. Copyrights and trademarks by department.
- 630.097. Comprehensive children's mental health service system to be developed — team established, members, duties — plan to be developed, content — evaluations to be conducted, when.
- 630.120. No presumptions.
- 630.165. Suspected abuse of patient, report, by whom made, contents — effect of failure to report — penalty.
- 630.167. Investigation of report, when made, by whom — abuse prevention by removal, procedure — reports confidential, privileged, exceptions — immunity of reporter, notification — retaliation prohibited — administrative discharge of employee, appeal procedure.
- 630.183. Officers may authorize medical treatment for patient.
- 630.192. Limitations on research activities in mental health facilities and programs.
- 630.210. Charges for pay patients — each facility considered a separate unit — director to determine rules for means test and domicile verification — failure to pay, effect — exceptions, emergency treatment for transients — waiver of means test for certain children, when.
- 630.335. Canteens and commissaries authorized — operation.
- 630.405. Purchase of services, procedure — commissioner of administration to cooperate — rules, procedure.
- 630.425. Incentive grants authorized — rules and regulations — duration of grants.
- 630.510. Inventory of facilities — plan for new facilities.
- 630.605. Placement programs to be maintained.
- 630.610. Applications for placement — criteria to be considered.
- 630.635. Procedure when consent not given — review panel to be named — notice and hearing required — appeal — emergency transfers may be made.
- 630.705. Rules for standards for facilities and programs for persons affected by mental disorder, mental illness, or developmental disability — classification of facilities and programs — certain facilities and programs not to be licensed.
- 630.715. Licensing of residential facilities and day programs — fee — affidavit.
- 630.735. License required.
- 632.005. Definitions.
- 632.105. Adults to be accepted for evaluation, when, by whom — may then be admitted to mental health facility — consent required.
- 632.110. Minors to be accepted for evaluation, when, by whom — may then be admitted to mental health facility — parent or guardian to consent — peace officer may transport to facility, when.
- 632.115. Juveniles to be admitted by heads of facilities when committed.
- 632.120. Incompetents to be accepted by heads of facilities upon application — duration of admission for evaluation — consent may be authorized.

- 632.370. Transfer of patient by department — hearing on transfer of minor to adult ward — consent required — notice to be given — considerations — transfer to federal facility, notice, restrictions.
- 632.380. Provisions of chapter not to apply to certain persons.
- 633.005. Definitions.
- 633.010. Responsibilities, powers, functions and duties of division.
- 633.020. Advisory council on developmental disabilities — members, number, terms, qualifications, appointment — organization, meetings — duties.
- 633.029. Definition to determine status of eligibility.
- 633.030. Department to develop state plan, contents.
- 633.045. Duties of regional advisory councils — plans.
- 633.050. Regional councils to review, advise and recommend — duties.
- 633.110. What services may be provided — consent required, when.
- 633.115. Entities to be used by regional centers.
- 633.120. Referral for admission to facility, when — admission or rejection, appeal — consent.
- 633.125. Discharge from facility, when — may be denied, procedure thereafter — referral to regional center for placement, when.
- 633.130. Evaluation of residents required — discharge thereafter.
- 633.135. Refusal of consent for placement or discharge, effect — procedure — department director to make final determination — appeal, procedure — burden of proof.
- 633.140. Return of absentee, procedure.
- 633.145. Transfer of patient between facilities by department — notice, consent.
- 633.150. Transfer of patient to mental health facility by head of developmental disability facility, how.
- 633.155. Admission for respite care for limited time only.
- 633.160. Emergency admission may be made, duration, conditions.
- 633.180. Cash stipend, eligibility, amount, payment, use — application.
- 633.185. Family support loan program — interest rate — amount — application — family support loan program fund created.
- 633.190. Promulgation of rules.
- 633.210. Office of autism services established, duties — autism spectrum disorder defined.
- 633.300. Group homes and facilities subject to federal and state law — workers subject to training requirements — rulemaking authority.
- 633.303. Termination of workers on disqualification registry.
- 633.309. No transfer to homes or facilities with noncompliance notices.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 8.241, 178.900, 189.010, 189.065, 192.005, 198.012, 205.968, 208.151, 208.275, 208.955, 210.496, 210.900, 211.031, 211.202, 211.203, 211.206, 211.207, 211.447, 402.210, 453.070, 475.121, 475.355, 476.537, 552.015, 552.020, 552.030, 552.040, 630.003, 630.005, 630.010, 630.053, 630.095, 630.097, 630.120, 630.165, 630.167, 630.183, 630.192, 630.210, 630.335, 630.405, 630.425, 630.510, 630.605, 630.610, 630.635, 630.705, 630.715, 630.735, 632.005, 632.105, 632.110, 632.115, 632.120, 632.370, 632.380, 633.005, 633.010, 633.020, 633.029, 633.030, 633.045, 633.050, 633.110, 633.115, 633.120, 633.125, 633.130, 633.135, 633.140, 633.145, 633.150, 633.155, 633.160, 633.180, 633.185, 633.190, 633.210, 633.300, 633.303, and 633.309, RSMo, are repealed and eighty-one new sections enacted in lieu thereof, to be known as sections 8.241, 178.900, 189.010, 189.065, 192.005, 198.012, 205.968, 208.151, 208.275, 208.955, 210.496, 210.900, 211.031, 211.202, 211.203, 211.206, 211.207, 211.447, 402.210, 453.070, 475.121, 475.355, 476.537, 552.015, 552.020, 552.030, 552.040, 630.003, 630.005, 630.010, 630.053, 630.095, 630.097, 630.120, 630.165, 630.167, 630.183, 630.192, 630.210, 630.335, 630.405, 630.425, 630.510, 630.605, 630.610, 630.635, 630.705, 630.715, 630.735, 632.005, 632.105, 632.110, 632.115, 632.120, 632.370, 632.380, 633.005, 633.010, 633.020, 633.029, 633.030, 633.045, 633.050, 633.110, 633.115, 633.120, 633.125, 633.130, 633.135, 633.140, 633.145, 633.150, 633.155, 633.160, 633.180, 633.185, 633.190, 633.210, 633.300, 633.303, and 633.309, to read as follows:

**8.241. CERTAIN LAND IN ST. LOUIS CITY — RESTRICTIONS.** — 1. In addition to other provisions of law relating to title to and conveyance of real property by the state, and notwithstanding any provisions of chapter 8 to the contrary, if the state should ever purchase or

otherwise acquire ownership of real property located in a city not within a county as described in subsection 2 of this section, the state shall:

(1) Use, operate and maintain such property in full compliance with all applicable deed restrictions encumbering the property;

(2) Operate, maintain and use the property exclusively by the department of mental health for the purpose of housing no more than six employed and employable [mentally retarded or developmentally disabled] adults **with an intellectual disability or developmental disability**, and for no other purpose and by no other state agency, in whole or in part;

(3) Not sell or otherwise transfer ownership of the property, unless such property is sold or transferred solely for private, single-family residential use, which shall not be deemed to include, without limitation, any sale, transfer or conveyance of ownership of the property to any other state agency or department or program.

2. The property subject to the provisions of this section is more particularly described as follows: A parcel of real estate situated in Lot 20 in Block A of Compton Heights and in Block No. 1365 of the City of St. Louis, fronting 100 feet 0-3/8 inches on the North line of Longfellow Boulevard by a depth Northwardly on the east line of a 160 square foot and 159 feet 5 inches on the West line to the North line of said lot on which there is a frontage of 100 feet bounded East by Compton Avenue together with all improvements thereon, known as and numbered 3205 Longfellow Boulevard.

**178.900. DEFINITIONS.** — For the purposes of sections 178.900 to [178.970] **178.960** the following words mean:

(1) "Department", the department of elementary and secondary education;

(2) "[Handicapped] **Disabled** persons", a lower range educable or upper range trainable [mentally retarded] **developmentally disabled** or other [handicapped] **disabled** person sixteen years of age or over who has had school training and has a productive work capacity in a sheltered environment adapted to the abilities of [the mentally retarded] **persons with a developmental disability** but whose limited capabilities make him **or her** nonemployable in competitive business and industry and unsuited for vocational rehabilitation training;

(3) "Sheltered workshop", an occupation-oriented facility operated by a not-for-profit corporation, which, except for its staff, employs only [handicapped] persons **with disabilities** and has a minimum enrollment of at least fifteen employable [handicapped] persons **with disabilities**;

(4) "Staff", employees of a sheltered workshop engaged in management, work procurement, purchasing, supervision, sales, bookkeeping, and secretarial and clerical functions.

**189.010. DEFINITIONS—FUNDS INTENDED FOR POOR PATIENTS—PATIENTS THAT ARE INELIGIBLE.** — 1. As used in sections 189.010 to 189.085, unless the context clearly indicates otherwise, the following terms mean:

(1) "Approved provider", hospitals, clinics, laboratories, or other health personnel or facilities meeting standards to be established under the provisions of sections 189.010 to 189.085;

(2) "Department", the department of social services of the state of Missouri;

(3) "Director", the director of the department of social services of the state of Missouri or his duly authorized representative;

(4) "High risk patient", a woman of childbearing age who has any condition, or is at risk of developing some condition, medically or otherwise known to predispose to premature birth or to produce [mental retardation] **developmental disability**; or any infant or child who has any condition, or is at risk of developing some condition, medically known to predispose to [mental retardation] **developmental disability**;

(5) "Person", any individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose or organization of any kind, including any governmental agency other than the United States or the state of Missouri;

(6) "Region", contiguous geographic areas of the state larger than single counties where health programs including special services for high risk patients can be developed efficiently and economically;

(7) "Service", any medical, surgical, corrective, diagnostic procedure, or hospitalization, and related activity to correct high risk conditions including all things reasonably incident and necessary to make the service available to the high risk patient;

(8) "Special services", diagnostic and treatment services which may not be efficiently or economically developed as a regular component of a hospital or clinic either because of high cost or infrequent demand but which may be required for high risk patients; such services would include, but not be limited to, intensive care units for the care of premature infants and intra-uterine fetal monitoring.

2. Expenditures for the operation of a hospital include, but are not limited to, amounts paid in connection with inpatient care in the hospital; ambulatory or emergency care provided by the hospital; ambulance services used in the transportation of patients to the hospital or among hospitals; administration of the hospital; maintenance and repairs of the hospital; depreciation of hospital capital assets; food, drugs, equipment and other supplies used by the hospital; and recruitment, selection and training of physician, nursing, allied health and other hospital personnel.

3. Funds approved under the provisions of sections 189.010 to 189.085 are not restricted for paying certain operating costs, or groups of costs, but are intended to supplement the appropriations from the local governmental agency for poor patients. Patients eligible for Medicare, Medicaid and other third party insurance are not eligible under this chapter.

**189.065. SPECIAL NEED AREAS, EXPENDITURES FOR.** — The department is authorized and directed to work with public and private institutions and agencies or persons to insure that special services will be available in all regions of the state, both rural and metropolitan. Whenever services or special services required for the purposes of sections 189.010 to 189.085 are not available, the department is authorized to use up to ten percent of the funds appropriated for the purposes of sections 189.010 to 189.085 to assist in establishing the facilities and professional staff required. For the purposes of implementing this section, the department and the advisory committees shall give special consideration to those areas of the state or population groups which demonstrate the highest incidence of [mental retardation] **developmental disability** or where accessibility to services or special services may be limited because of distance.

**192.005. DEPARTMENT OF HEALTH AND SENIOR SERVICES CREATED — DIVISION OF HEALTH ABOLISHED — DUTIES.** — There is hereby created and established as a department of state government the "Department of Health and Senior Services". The department of health and senior services shall supervise and manage all public health functions and programs. The department shall be governed by the provisions of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo, unless otherwise provided in sections 192.005 to 192.014. The division of health of the department of social services, chapter 191, this chapter, and others, including, but not limited to, such agencies and functions as the state health planning and development agency, the crippled children's service, chapter 201, the bureau and the program for the prevention of [mental retardation] **developmental disability**, the hospital subsidy program, chapter 189, the state board of health, section 191.400, the student loan program, sections 191.500 to 191.550, the family practice residency program, [sections 191.575 to 191.590,] the licensure and certification of hospitals, chapter 197, the Missouri chest hospital, sections 199.010 to 199.070, are hereby transferred to the department of health and senior services by a type I transfer, and the state cancer center and cancer commission, chapter 200, is hereby transferred to the department of health and

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senior services by a type III transfer as such transfers are defined in section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo Supp. 1984. The provisions of section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo Supp. 1984, relating to the manner and procedures for transfers of state agencies shall apply to the transfers provided in this section. The division of health of the department of social services is abolished.

**198.012. PROVISIONS OF SECTIONS 198.003 TO 198.136 NOT TO APPLY, WHEN — EXEMPT ENTITIES MAY BE LICENSED.** — 1. The provisions of sections 198.003 to 198.136 shall not apply to any of the following entities:

- (1) Any hospital, facility or other entity operated by the state or the United States;
- (2) Any facility or other entity otherwise licensed by the state and operating exclusively under such license and within the limits of such license, unless the activities and services are or are held out as being activities or services normally provided by a licensed facility under sections 198.003 to 198.186, 198.200, 208.030, and 208.159, except hospitals licensed under the provisions of chapter 197;
- (3) Any hospital licensed under the provisions of chapter 197, provided that the assisted living facility, intermediate care facility or skilled nursing facility are physically attached to the acute care hospital; and provided further that the department of health and senior services in promulgating rules, regulations and standards pursuant to section 197.080, with respect to such facilities, shall establish requirements and standards for such hospitals consistent with the intent of this chapter, and sections 198.067, 198.070, 198.090, 198.093 and 198.139 to 198.180 shall apply to every assisted living facility, intermediate care facility or skilled nursing facility regardless of physical proximity to any other health care facility;
- (4) Any facility licensed pursuant to sections 630.705 to 630.760 which provides care, treatment, habilitation and rehabilitation exclusively to persons who have a primary diagnosis of mental disorder, mental illness, [mental retardation] or developmental disabilities, as defined in section 630.005;
- (5) Any provider of care under a life care contract, except to any portion of the provider's premises on which the provider offers services provided by an intermediate care facility or skilled nursing facility as defined in section 198.006. For the purposes of this section, "provider of care under a life care contract" means any person contracting with any individual to furnish specified care and treatment to the individual for the life of the individual, with significant prepayment for such care and treatment.

2. Nothing in this section shall prohibit any of these entities from applying for a license under sections 198.003 to 198.136.

**205.968. FACILITIES AUTHORIZED — PERSONS TO BE SERVED, LIMITATIONS, DEFINITIONS.** — 1. As set forth in section 205.971, when a levy is approved by the voters, the governing body of any county or city not within a county of this state shall establish a board of directors. The board of directors shall be a legal entity empowered to establish and/or operate a sheltered workshop as defined in section 178.900, residence facilities, or related services, for the care or employment, or both, of [handicapped] persons **with a disability**. The facility may operate at one or more locations in the county or city not within a county. Once established, the board may, in its own name engage in and contract for any and all types of services, actions or endeavors, not contrary to the law, necessary to the successful and efficient prosecution and continuation of the business and purposes for which it is created, and may purchase, receive, lease or otherwise acquire, own, hold, improve, use, sell, convey, exchange, transfer, and otherwise dispose of real and personal property, or any interest therein, or other assets wherever situated and may incur liability and may borrow money at rates of interest up to the market rate published by the Missouri division of finance. The board shall be taken and considered as a "political subdivision" as the term is defined in section 70.600 for the purposes of sections 70.600 to 70.755.

2. Services may only be provided for those persons defined as [handicapped] persons **with a disability** in section 178.900 and those persons defined as [handicapped] persons **with a disability** in this section whether or not employed at the facility or in the community, and for persons who are [handicapped] **disabled** due to developmental disability. Persons having substantial functional limitations due to a mental illness as defined in section 630.005 shall not be eligible for services under the provisions of sections 205.968 to 205.972 except that those persons may participate in services under the provisions of sections 205.968 to 205.972. All persons otherwise eligible for facilities or services under this section shall be eligible regardless of their age; except that, individuals employed in sheltered workshops must be at least sixteen years of age. The board may, in its discretion, impose limitations with respect to individuals to be served and services to be provided. Such limitations shall be reasonable in the light of available funds, needs of the persons and community to be served as assessed by the board, and the appropriateness and efficiency of combining services to persons with various types of [handicaps or] disabilities.

3. For the purposes of sections 205.968 to 205.972, the term

(1) "Developmental disability" shall mean either or both paragraph (a) or (b) of this subsection:

(a) A disability which is attributable to mental retardation, cerebral palsy, autism, epilepsy, a learning disability related to a brain dysfunction or a similar condition found by comprehensive evaluation to be closely related to such conditions, or to require habilitation similar to that required for mentally retarded persons; and

a. Which originated before age eighteen; and

b. Which can be expected to continue indefinitely;

(b) A developmental disability as defined in section 630.005;

(2) "[Handicapped] Person **with a disability**" shall mean a person who is lower range educable or upper range trainable mentally retarded or a person who has a developmental disability.

**208.151. MEDICAL ASSISTANCE, PERSONS ELIGIBLE—RULEMAKING AUTHORITY.** — 1.

Medical assistance on behalf of needy persons shall be known as "MO HealthNet". For the purpose of paying MO HealthNet benefits and to comply with Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. Section 301, et seq.) as amended, the following needy persons shall be eligible to receive MO HealthNet benefits to the extent and in the manner hereinafter provided:

(1) All participants receiving state supplemental payments for the aged, blind and disabled;

(2) All participants receiving aid to families with dependent children benefits, including all persons under nineteen years of age who would be classified as dependent children except for the requirements of subdivision (1) of subsection 1 of section 208.040. Participants eligible under this subdivision who are participating in drug court, as defined in section 478.001, shall have their eligibility automatically extended sixty days from the time their dependent child is removed from the custody of the participant, subject to approval of the Centers for Medicare and Medicaid Services;

(3) All participants receiving blind pension benefits;

(4) All persons who would be determined to be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits under the eligibility standards in effect December 31, 1973, or less restrictive standards as established by rule of the family support division, who are sixty-five years of age or over and are patients in state institutions for mental diseases or tuberculosis;

(5) All persons under the age of twenty-one years who would be eligible for aid to families with dependent children except for the requirements of subdivision (2) of subsection 1 of section

208.040, and who are residing in an intermediate care facility, or receiving active treatment as inpatients in psychiatric facilities or programs, as defined in 42 U.S.C. 1396d, as amended;

(6) All persons under the age of twenty-one years who would be eligible for aid to families with dependent children benefits except for the requirement of deprivation of parental support as provided for in subdivision (2) of subsection 1 of section 208.040;

(7) All persons eligible to receive nursing care benefits;

(8) All participants receiving family foster home or nonprofit private child-care institution care, subsidized adoption benefits and parental school care wherein state funds are used as partial or full payment for such care;

(9) All persons who were participants receiving old age assistance benefits, aid to the permanently and totally disabled, or aid to the blind benefits on December 31, 1973, and who continue to meet the eligibility requirements, except income, for these assistance categories, but who are no longer receiving such benefits because of the implementation of Title XVI of the federal Social Security Act, as amended;

(10) Pregnant women who meet the requirements for aid to families with dependent children, except for the existence of a dependent child in the home;

(11) Pregnant women who meet the requirements for aid to families with dependent children, except for the existence of a dependent child who is deprived of parental support as provided for in subdivision (2) of subsection 1 of section 208.040;

(12) Pregnant women or infants under one year of age, or both, whose family income does not exceed an income eligibility standard equal to one hundred eighty-five percent of the federal poverty level as established and amended by the federal Department of Health and Human Services, or its successor agency;

(13) Children who have attained one year of age but have not attained six years of age who are eligible for medical assistance under 6401 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989). The family support division shall use an income eligibility standard equal to one hundred thirty-three percent of the federal poverty level established by the Department of Health and Human Services, or its successor agency;

(14) Children who have attained six years of age but have not attained nineteen years of age. For children who have attained six years of age but have not attained nineteen years of age, the family support division shall use an income assessment methodology which provides for eligibility when family income is equal to or less than equal to one hundred percent of the federal poverty level established by the Department of Health and Human Services, or its successor agency. As necessary to provide MO HealthNet coverage under this subdivision, the department of social services may revise the state MO HealthNet plan to extend coverage under 42 U.S.C. 1396a (a)(10)(A)(i)(III) to children who have attained six years of age but have not attained nineteen years of age as permitted by paragraph (2) of subsection (n) of 42 U.S.C. 1396d using a more liberal income assessment methodology as authorized by paragraph (2) of subsection (r) of 42 U.S.C. 1396a;

(15) The family support division shall not establish a resource eligibility standard in assessing eligibility for persons under subdivision (12), (13) or (14) of this subsection. The MO HealthNet division shall define the amount and scope of benefits which are available to individuals eligible under each of the subdivisions (12), (13), and (14) of this subsection, in accordance with the requirements of federal law and regulations promulgated thereunder;

(16) Notwithstanding any other provisions of law to the contrary, ambulatory prenatal care shall be made available to pregnant women during a period of presumptive eligibility pursuant to 42 U.S.C. Section 1396r-1, as amended;

(17) A child born to a woman eligible for and receiving MO HealthNet benefits under this section on the date of the child's birth shall be deemed to have applied for MO HealthNet benefits and to have been found eligible for such assistance under such plan on the date of such birth and to remain eligible for such assistance for a period of time determined in accordance with applicable

federal and state law and regulations so long as the child is a member of the woman's household and either the woman remains eligible for such assistance or for children born on or after January 1, 1991, the woman would remain eligible for such assistance if she were still pregnant. Upon notification of such child's birth, the family support division shall assign a MO HealthNet eligibility identification number to the child so that claims may be submitted and paid under such child's identification number;

(18) Pregnant women and children eligible for MO HealthNet benefits pursuant to subdivision (12), (13) or (14) of this subsection shall not as a condition of eligibility for MO HealthNet benefits be required to apply for aid to families with dependent children. The family support division shall utilize an application for eligibility for such persons which eliminates information requirements other than those necessary to apply for MO HealthNet benefits. The division shall provide such application forms to applicants whose preliminary income information indicates that they are ineligible for aid to families with dependent children. Applicants for MO HealthNet benefits under subdivision (12), (13) or (14) **of this subsection** shall be informed of the aid to families with dependent children program and that they are entitled to apply for such benefits. Any forms utilized by the family support division for assessing eligibility under this chapter shall be as simple as practicable;

(19) Subject to appropriations necessary to recruit and train such staff, the family support division shall provide one or more full-time, permanent eligibility specialists to process applications for MO HealthNet benefits at the site of a health care provider, if the health care provider requests the placement of such eligibility specialists and reimburses the division for the expenses including but not limited to salaries, benefits, travel, training, telephone, supplies, and equipment, of such eligibility specialists. The division may provide a health care provider with a part-time or temporary eligibility specialist at the site of a health care provider if the health care provider requests the placement of such an eligibility specialist and reimburses the division for the expenses, including but not limited to the salary, benefits, travel, training, telephone, supplies, and equipment, of such an eligibility specialist. The division may seek to employ such eligibility specialists who are otherwise qualified for such positions and who are current or former welfare participants. The division may consider training such current or former welfare participants as eligibility specialists for this program;

(20) Pregnant women who are eligible for, have applied for and have received MO HealthNet benefits under subdivision (2), (10), (11) or (12) of this subsection shall continue to be considered eligible for all pregnancy-related and postpartum MO HealthNet benefits provided under section 208.152 until the end of the sixty-day period beginning on the last day of their pregnancy;

(21) Case management services for pregnant women and young children at risk shall be a covered service. To the greatest extent possible, and in compliance with federal law and regulations, the department of health and senior services shall provide case management services to pregnant women by contract or agreement with the department of social services through local health departments organized under the provisions of chapter 192 or chapter 205 or a city health department operated under a city charter or a combined city-county health department or other department of health and senior services designees. To the greatest extent possible the department of social services and the department of health and senior services shall mutually coordinate all services for pregnant women and children with the crippled children's program, the prevention of [mental retardation] **intellectual disability and developmental disability** program and the prenatal care program administered by the department of health and senior services. The department of social services shall by regulation establish the methodology for reimbursement for case management services provided by the department of health and senior services. For purposes of this section, the term "case management" shall mean those activities of local public health personnel to identify prospective MO HealthNet-eligible high-risk mothers and enroll them in the state's MO HealthNet program, refer them to local physicians or local health departments who

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provide prenatal care under physician protocol and who participate in the MO HealthNet program for prenatal care and to ensure that said high-risk mothers receive support from all private and public programs for which they are eligible and shall not include involvement in any MO HealthNet prepaid, case-managed programs;

(22) By January 1, 1988, the department of social services and the department of health and senior services shall study all significant aspects of presumptive eligibility for pregnant women and submit a joint report on the subject, including projected costs and the time needed for implementation, to the general assembly. The department of social services, at the direction of the general assembly, may implement presumptive eligibility by regulation promulgated pursuant to chapter 207;

(23) All participants who would be eligible for aid to families with dependent children benefits except for the requirements of paragraph (d) of subdivision (1) of section 208.150;

(24) (a) All persons who would be determined to be eligible for old age assistance benefits under the eligibility standards in effect December 31, 1973, as authorized by 42 U.S.C. Section 1396a(f), or less restrictive methodologies as contained in the MO HealthNet state plan as of January 1, 2005; except that, on or after July 1, 2005, less restrictive income methodologies, as authorized in 42 U.S.C. Section 1396a(r)(2), may be used to change the income limit if authorized by annual appropriation;

(b) All persons who would be determined to be eligible for aid to the blind benefits under the eligibility standards in effect December 31, 1973, as authorized by 42 U.S.C. Section 1396a(f), or less restrictive methodologies as contained in the MO HealthNet state plan as of January 1, 2005, except that less restrictive income methodologies, as authorized in 42 U.S.C. Section 1396a(r)(2), shall be used to raise the income limit to one hundred percent of the federal poverty level;

(c) All persons who would be determined to be eligible for permanent and total disability benefits under the eligibility standards in effect December 31, 1973, as authorized by 42 U.S.C. 1396a(f); or less restrictive methodologies as contained in the MO HealthNet state plan as of January 1, 2005; except that, on or after July 1, 2005, less restrictive income methodologies, as authorized in 42 U.S.C. Section 1396a(r)(2), may be used to change the income limit if authorized by annual appropriations. Eligibility standards for permanent and total disability benefits shall not be limited by age;

(25) Persons who have been diagnosed with breast or cervical cancer and who are eligible for coverage pursuant to 42 U.S.C. 1396a (a)(10)(A)(ii)(XVIII). Such persons shall be eligible during a period of presumptive eligibility in accordance with 42 U.S.C. 1396r-1;

(26) Persons who are independent foster care adolescents, as defined in 42 U.S.C. Section 1396d, or who are within reasonable categories of such adolescents who are under twenty-one years of age as specified by the state, are eligible for coverage under 42 U.S.C. Section 1396a (a)(10)(A)(ii)(XVII) without regard to income or assets.

2. Rules and regulations to implement this section shall be promulgated in accordance with section 431.064 and chapter 536. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

3. After December 31, 1973, and before April 1, 1990, any family eligible for assistance pursuant to 42 U.S.C. 601, et seq., as amended, in at least three of the last six months immediately preceding the month in which such family became ineligible for such assistance because of increased income from employment shall, while a member of such family is employed, remain eligible for MO HealthNet benefits for four calendar months following the month in which such

family would otherwise be determined to be ineligible for such assistance because of income and resource limitation. After April 1, 1990, any family receiving aid pursuant to 42 U.S.C. 601, et seq., as amended, in at least three of the six months immediately preceding the month in which such family becomes ineligible for such aid, because of hours of employment or income from employment of the caretaker relative, shall remain eligible for MO HealthNet benefits for six calendar months following the month of such ineligibility as long as such family includes a child as provided in 42 U.S.C. 1396r-6. Each family which has received such medical assistance during the entire six-month period described in this section and which meets reporting requirements and income tests established by the division and continues to include a child as provided in 42 U.S.C. 1396r-6 shall receive MO HealthNet benefits without fee for an additional six months. The MO HealthNet division may provide by rule and as authorized by annual appropriation the scope of MO HealthNet coverage to be granted to such families.

4. When any individual has been determined to be eligible for MO HealthNet benefits, such medical assistance will be made available to him or her for care and services furnished in or after the third month before the month in which he made application for such assistance if such individual was, or upon application would have been, eligible for such assistance at the time such care and services were furnished; provided, further, that such medical expenses remain unpaid.

5. The department of social services may apply to the federal Department of Health and Human Services for a MO HealthNet waiver amendment to the Section 1115 demonstration waiver or for any additional MO HealthNet waivers necessary not to exceed one million dollars in additional costs to the state, unless subject to appropriation or directed by statute, but in no event shall such waiver applications or amendments seek to waive the services of a rural health clinic or a federally qualified health center as defined in 42 U.S.C. 1396d(l)(1) and (2) or the payment requirements for such clinics and centers as provided in 42 U.S.C. 1396a(a)(15) and 1396a(bb) unless such waiver application is approved by the oversight committee created in section 208.955. A request for such a waiver so submitted shall only become effective by executive order not sooner than ninety days after the final adjournment of the session of the general assembly to which it is submitted, unless it is disapproved within sixty days of its submission to a regular session by a senate or house resolution adopted by a majority vote of the respective elected members thereof, unless the request for such a waiver is made subject to appropriation or directed by statute.

6. Notwithstanding any other provision of law to the contrary, in any given fiscal year, any persons made eligible for MO HealthNet benefits under subdivisions (1) to (22) of subsection 1 of this section shall only be eligible if annual appropriations are made for such eligibility. This subsection shall not apply to classes of individuals listed in 42 U.S.C. Section 1396a(a)(10)(A)(i).

**208.275. COORDINATING COUNCIL ON SPECIAL TRANSPORTATION, CREATION — MEMBERS, QUALIFICATIONS, APPOINTMENT, TERMS, EXPENSES — STAFF — POWERS — DUTIES.** — 1. As used in this section, unless the context otherwise indicates, the following terms mean:

(1) "Elderly", any person who is sixty years of age or older;

(2) "[Handicapped] **Person with a disability**", any person having a physical or mental condition, either permanent or temporary, which would substantially impair ability to operate or utilize available transportation.

2. There is hereby created the "Coordinating Council on Special Transportation" within the Missouri department of transportation. The members of the council shall be: two members of the senate appointed by the president pro tem, who shall be from different political parties; two members of the house of representatives appointed by the speaker, who shall be from different political parties; the assistant for transportation of the Missouri department of transportation, or his designee; the assistant commissioner of the department of elementary and secondary education, responsible for special transportation, or his designee; the director of the division of aging of the department of social services, or his designee; the deputy director for [mental retardation]

developmental disabilities and the deputy director for administration of the department of mental health, or their designees; the executive secretary of the governor's committee on the employment of the [handicapped] **persons with a disability**; and seven consumer representatives appointed by the governor by and with the advice and consent of the senate, four of the consumer representatives shall represent the elderly and three shall represent [the handicapped] **persons with a disability**. Two of such three members representing [handicapped] persons **with a disability** shall represent those with physical [handicaps] **disabilities**. Consumer representatives appointed by the governor shall serve for terms of three years or until a successor is appointed and qualified. Of the members first selected, two shall be selected for a term of three years, two shall be selected for a term of two years, and three shall be selected for a term of one year. In the event of the death or resignation of any member, his successor shall be appointed to serve for the unexpired period of the term for which such member had been appointed.

3. State agency personnel shall serve on the council without additional appropriations or compensation. The consumer representatives shall serve without compensation except for receiving reimbursement for the reasonable and necessary expenses incurred in the performance of their duties on the council from funds appropriated to the department of transportation. Legislative members shall be reimbursed by their respective appointing bodies out of the contingency fund for such body for necessary expenses incurred in the performance of their duties.

4. Staff for the council shall be provided by the Missouri department of transportation. The department shall designate a special transportation coordinator who shall have had experience in the area of special transportation, as well as such other staff as needed to enable the council to perform its duties.

5. The council shall meet at least quarterly each year and shall elect from its members a chairman and a vice chairman.

6. The coordinating council on special transportation shall:

- (1) Recommend and periodically review policies for the coordinated planning and delivery of special transportation when appropriate;
- (2) Identify special transportation needs and recommend agency funding allocations and resources to meet these needs when appropriate;
- (3) Identify legal and administrative barriers to effective service delivery;
- (4) Review agency methods for distributing funds within the state and make recommendations when appropriate;
- (5) Review agency funding criteria and make recommendations when appropriate;
- (6) Review area transportation plans and make recommendations for plan format and content;
- (7) Establish measurable objectives for the delivery of transportation services;
- (8) Review annual performance data and make recommendations for improved service delivery, operating procedures or funding when appropriate;
- (9) Review local disputes and conflicts on special transportation and recommend solutions.

**208.955. COMMITTEE ESTABLISHED, MEMBERS, DUTIES — ISSUANCE OF FINDINGS — SUBCOMMITTEE DESIGNATED, DUTIES, MEMBERS.** — 1. There is hereby established in the department of social services the "MO HealthNet Oversight Committee", which shall be appointed by January 1, 2008, and shall consist of [eighteen] **nineteen** members as follows:

- (1) Two members of the house of representatives, one from each party, appointed by the speaker of the house of representatives and the minority floor leader of the house of representatives;
- (2) Two members of the Senate, one from each party, appointed by the president pro tem of the senate and the minority floor leader of the senate;

(3) One consumer representative **who has no financial interest in the health care industry and who has not been an employee of the state within the last five years;**

(4) Two primary care physicians, licensed under chapter 334, [recommended by any Missouri organization or association that represents a significant number of physicians licensed in this state,] who care for participants, not from the same geographic area, **chosen in the same manner as described in section 334.120;**

(5) Two physicians, licensed under chapter 334, who care for participants but who are not primary care physicians and are not from the same geographic area, [recommended by any Missouri organization or association that represents a significant number of physicians licensed in this state] **chosen in the same manner as described in section 334.120;**

(6) One representative of the state hospital association;

(7) [One] **Two** nonphysician health care [professional] **professionals, the first nonphysician health care professional licensed under chapter 335 and the second nonphysician health care professional licensed under chapter 337,** who [cares] **care** for participants[, recommended by the director of the department of insurance, financial institutions and professional registration];

(8) One dentist, who cares for participants[. The dentist shall be recommended by any Missouri organization or association that represents a significant number of dentists licensed in this state] , **chosen in the same manner as described in section 332.021;**

(9) Two patient advocates **who have no financial interest in the health care industry and who have not been employees of the state within the last five years;**

(10) One public member **who has no financial interest in the health care industry and who has not been an employee of the state within the last five years;** and

(11) The directors of the department of social services, the department of mental health, the department of health and senior services, or the respective directors' designees, who shall serve as ex-officio members of the committee.

2. The members of the oversight committee, other than the members from the general assembly and ex-officio members, shall be appointed by the governor with the advice and consent of the senate. A chair of the oversight committee shall be selected by the members of the oversight committee. Of the members first appointed to the oversight committee by the governor, eight members shall serve a term of two years, seven members shall serve a term of one year, and thereafter, members shall serve a term of two years. Members shall continue to serve until their successor is duly appointed and qualified. Any vacancy on the oversight committee shall be filled in the same manner as the original appointment. Members shall serve on the oversight committee without compensation but may be reimbursed for their actual and necessary expenses from moneys appropriated to the department of social services for that purpose. The department of social services shall provide technical, actuarial, and administrative support services as required by the oversight committee. The oversight committee shall:

(1) Meet on at least four occasions annually, including at least four before the end of December of the first year the committee is established. Meetings can be held by telephone or video conference at the discretion of the committee;

(2) Review the participant and provider satisfaction reports and the reports of health outcomes, social and behavioral outcomes, use of evidence-based medicine and best practices as required of the health improvement plans and the department of social services under section 208.950;

(3) Review the results from other states of the relative success or failure of various models of health delivery attempted;

(4) Review the results of studies comparing health plans conducted under section 208.950;

(5) Review the data from health risk assessments collected and reported under section 208.950;

(6) Review the results of the public process input collected under section 208.950;

(7) Advise and approve proposed design and implementation proposals for new health improvement plans submitted by the department, as well as make recommendations and suggest modifications when necessary;

(8) Determine how best to analyze and present the data reviewed under section 208.950 so that the health outcomes, participant and provider satisfaction, results from other states, health plan comparisons, financial impact of the various health improvement plans and models of care, study of provider access, and results of public input can be used by consumers, health care providers, and public officials;

(9) Present significant findings of the analysis required in subdivision (8) of this subsection in a report to the general assembly and governor, at least annually, beginning January 1, 2009;

(10) Review the budget forecast issued by the legislative budget office, and the report required under subsection (22) of subsection 1 of section 208.151, and after study:

(a) Consider ways to maximize the federal drawdown of funds;

(b) Study the demographics of the state and of the MO HealthNet population, and how those demographics are changing;

(c) Consider what steps are needed to prepare for the increasing numbers of participants as a result of the baby boom following World War II;

(11) Conduct a study to determine whether an office of inspector general shall be established. Such office would be responsible for oversight, auditing, investigation, and performance review to provide increased accountability, integrity, and oversight of state medical assistance programs, to assist in improving agency and program operations, and to deter and identify fraud, abuse, and illegal acts. The committee shall review the experience of all states that have created a similar office to determine the impact of creating a similar office in this state; and

(12) Perform other tasks as necessary, including but not limited to making recommendations to the division concerning the promulgation of rules and emergency rules so that quality of care, provider availability, and participant satisfaction can be assured.

3. By July 1, 2011, the oversight committee shall issue findings to the general assembly on the success and failure of health improvement plans and shall recommend whether or not any health improvement plans should be discontinued.

4. The oversight committee shall designate a subcommittee devoted to advising the department on the development of a comprehensive entry point system for long-term care that shall:

(1) Offer Missourians an array of choices including community-based, in-home, residential and institutional services;

(2) Provide information and assistance about the array of long-term care services to Missourians;

(3) Create a delivery system that is easy to understand and access through multiple points, which shall include but shall not be limited to providers of services;

(4) Create a delivery system that is efficient, reduces duplication, and streamlines access to multiple funding sources and programs;

(5) Strengthen the long-term care quality assurance and quality improvement system;

(6) Establish a long-term care system that seeks to achieve timely access to and payment for care, foster quality and excellence in service delivery, and promote innovative and cost-effective strategies; and

(7) Study one-stop shopping for seniors as established in section 208.612.

5. The subcommittee shall include the following members:

(1) The lieutenant governor or his or her designee, who shall serve as the subcommittee chair;

(2) One member from a Missouri area agency on aging, designated by the governor;

(3) One member representing the in-home care profession, designated by the governor;

(4) One member representing residential care facilities, predominantly serving MO HealthNet participants, designated by the governor;

(5) One member representing assisted living facilities or continuing care retirement communities, predominantly serving MO HealthNet participants, designated by the governor;

(6) One member representing skilled nursing facilities, predominantly serving MO HealthNet participants, designated by the governor;

(7) One member from the office of the state ombudsman for long-term care facility residents, designated by the governor;

(8) One member representing Missouri centers for independent living, designated by the governor;

(9) One consumer representative with expertise in services for seniors or **[the disabled] persons with a disability**, designated by the governor;

(10) One member with expertise in Alzheimer's disease or related dementia;

(11) One member from a county developmental disability board, designated by the governor;

(12) One member representing the hospice care profession, designated by the governor;

(13) One member representing the home health care profession, designated by the governor;

(14) One member representing the adult day care profession, designated by the governor;

(15) One member gerontologist, designated by the governor;

(16) Two members representing the aged, blind, and disabled population, not of the same geographic area or demographic group designated by the governor;

(17) The directors of the departments of social services, mental health, and health and senior services, or their designees; and

(18) One member of the house of representatives and one member of the senate serving on the oversight committee, designated by the oversight committee chair.

Members shall serve on the subcommittee without compensation but may be reimbursed for their actual and necessary expenses from moneys appropriated to the department of health and senior services for that purpose. The department of health and senior services shall provide technical and administrative support services as required by the committee.

6. By October 1, 2008, the comprehensive entry point system subcommittee shall submit its report to the governor and general assembly containing recommendations for the implementation of the comprehensive entry point system, offering suggested legislative or administrative proposals deemed necessary by the subcommittee to minimize conflict of interests for successful implementation of the system. Such report shall contain, but not be limited to, recommendations for implementation of the following consistent with the provisions of section 208.950:

(1) A complete statewide universal information and assistance system that is integrated into the web-based electronic patient health record that can be accessible by phone, in-person, via MO HealthNet providers and via the Internet that connects consumers to services or providers and is used to establish consumers' needs for services. Through the system, consumers shall be able to independently choose from a full range of home, community-based, and facility-based health and social services as well as access appropriate services to meet individual needs and preferences from the provider of the consumer's choice;

(2) A mechanism for developing a plan of service or care via the web-based electronic patient health record to authorize appropriate services;

(3) A preadmission screening mechanism for MO HealthNet participants for nursing home care;

(4) A case management or care coordination system to be available as needed; and

(5) An electronic system or database to coordinate and monitor the services provided which are integrated into the web-based electronic patient health record.

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7. Starting July 1, 2009, and for three years thereafter, the subcommittee shall provide to the governor, lieutenant governor and the general assembly a yearly report that provides an update on progress made by the subcommittee toward implementing the comprehensive entry point system.

8. The provisions of section 23.253 shall not apply to sections 208.950 to 208.955.

**210.496. REFUSAL TO ISSUE, SUSPENSION OR REVOCATION OF LICENSES — GROUNDS.**

— The division may refuse to issue either a license or a provisional license to an applicant, or may suspend or revoke the license or provisional license of a licensee, who:

(1) Fails consistently to comply with the applicable provisions of sections 208.400 to 208.535 and the applicable rules promulgated thereunder;

(2) Violates any of the provisions of its license;

(3) Violates state laws or rules relating to the protection of children;

(4) Furnishes or makes any misleading or false statements or reports to the division;

(5) Refuses to submit to the division any reports or refuses to make available to the division any records required by the division in making an investigation;

(6) Fails or refuses to admit authorized representatives of the division at any reasonable time for the purpose of investigation;

(7) Fails or refuses to submit to an investigation by the division;

(8) Fails to provide, maintain, equip, and keep in safe and sanitary condition the premises established or used for the care of children being served, as required by law, rule, or ordinance applicable to the location of the foster home or residential care facility; or

(9) Fails to provide financial resources adequate for the satisfactory care of and services to children being served and the upkeep of the premises.

**Nothing in this section shall be construed to permit discrimination on the basis of disability or disease of an applicant. The disability or disease of an applicant shall not constitute a basis for a determination that the applicant is unfit or not suitable to be a foster parent without a specific showing that there is a causal relationship between the disability or disease and a substantial and significant risk of harm to a child or an inability to perform the duties of a foster parent.**

**210.900. DEFINITIONS.** — 1. Sections 210.900 to 210.936 shall be known and may be cited as the "Family Care Safety Act".

2. As used in sections 210.900 to 210.936, the following terms shall mean:

(1) "Child-care provider", any licensed or license-exempt child-care home, any licensed or license-exempt child-care center, child-placing agency, residential care facility for children, group home, foster family group home, foster family home, employment agency that refers a child-care worker to parents or guardians as defined in section 289.005. The term "child-care provider" does not include summer camps or voluntary associations designed primarily for recreational or educational purposes;

(2) "Child-care worker", any person who is employed by a child-care provider, or receives state or federal funds, either by direct payment, reimbursement or voucher payment, as remuneration for child-care services;

(3) "Department", the department of health and senior services;

(4) "Elder-care provider", any operator licensed pursuant to chapter 198 or any person, corporation, or association who provides in-home services under contract with the division of aging, or any employer of nurses or nursing assistants of home health agencies licensed pursuant to sections 197.400 to 197.477, or any nursing assistants employed by a hospice pursuant to sections 197.250 to 197.280, or that portion of a hospital for which subdivision (3) of subsection 1 of section 198.012 applies;

(5) "Elder-care worker", any person who is employed by an elder-care provider, or who receives state or federal funds, either by direct payment, reimbursement or voucher payment, as remuneration for elder-care services;

(6) "Employer", any child-care provider, elder-care provider, or personal-care provider as defined in this section;

(7) "Mental health provider", any [mental retardation] **developmental disability** facility or group home as defined in section 633.005;

(8) "Mental health worker", any person employed by a mental health provider to provide personal care services and supports;

(9) "Patrol", the Missouri state highway patrol;

(10) "Personal-care attendant" or "personal-care worker", a person who performs routine services or supports necessary for a person with a physical or mental disability to enter and maintain employment or to live independently;

(11) "Personal-care provider", any person, corporation, or association who provides personal-care services or supports under contract with the department of mental health, the division of aging, the department of health and senior services or the department of elementary and secondary education;

(12) "Related child care", child care provided only to a child or children by such child's or children's grandparents, great-grandparents, aunts or uncles, or siblings living in a residence separate from the child or children;

(13) "Related elder care", care provided only to an elder by an adult child, a spouse, a grandchild, a great-grandchild or a sibling of such elder.

**211.031. JUVENILE COURT TO HAVE EXCLUSIVE JURISDICTION, WHEN — EXCEPTIONS — HOME SCHOOLING, ATTENDANCE VIOLATIONS, HOW TREATED.** — 1. Except as otherwise provided in this chapter, the juvenile court or the family court in circuits that have a family court as provided in sections 487.010 to 487.190 shall have exclusive original jurisdiction in proceedings:

(1) Involving any child or person seventeen years of age who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The parents, or other persons legally responsible for the care and support of the child or person seventeen years of age, neglect or refuse to provide proper support, education which is required by law, medical, surgical or other care necessary for his or her well-being; except that reliance by a parent, guardian or custodian upon remedial treatment other than medical or surgical treatment for a child or person seventeen years of age shall not be construed as neglect when the treatment is recognized or permitted pursuant to the laws of this state;

(b) The child or person seventeen years of age is otherwise without proper care, custody or support; or

(c) The child or person seventeen years of age was living in a room, building or other structure at the time such dwelling was found by a court of competent jurisdiction to be a public nuisance pursuant to section 195.130;

(d) The child or person seventeen years of age is a child in need of mental health services and the parent, guardian or custodian is unable to afford or access appropriate mental health treatment or care for the child;

(2) Involving any child who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The child while subject to compulsory school attendance is repeatedly and without justification absent from school; or

(b) The child disobeys the reasonable and lawful directions of his or her parents or other custodian and is beyond their control; or



(c) The child is habitually absent from his or her home without sufficient cause, permission, or justification; or

(d) The behavior or associations of the child are otherwise injurious to his or her welfare or to the welfare of others; or

(e) The child is charged with an offense not classified as criminal, or with an offense applicable only to children; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(3) Involving any child who is alleged to have violated a state law or municipal ordinance, or any person who is alleged to have violated a state law or municipal ordinance prior to attaining the age of seventeen years, in which cases jurisdiction may be taken by the court of the circuit in which the child or person resides or may be found or in which the violation is alleged to have occurred; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, and except that the juvenile court shall have concurrent jurisdiction with the municipal court over any child who is alleged to have violated a municipal curfew ordinance, and except that the juvenile court shall have concurrent jurisdiction with the circuit court on any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(4) For the adoption of a person;

(5) For the commitment of a child or person seventeen years of age to the guardianship of the department of social services as provided by law.

2. Transfer of a matter, proceeding, jurisdiction or supervision for a child or person seventeen years of age who resides in a county of this state shall be made as follows:

(1) Prior to the filing of a petition and upon request of any party or at the discretion of the juvenile officer, the matter in the interest of a child or person seventeen years of age may be transferred by the juvenile officer, with the prior consent of the juvenile officer of the receiving court, to the county of the child's residence or the residence of the person seventeen years of age for future action;

(2) Upon the motion of any party or on its own motion prior to final disposition on the pending matter, the court in which a proceeding is commenced may transfer the proceeding of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age, or the county in which the offense pursuant to subdivision (3) of subsection 1 of this section is alleged to have occurred for further action;

(3) Upon motion of any party or on its own motion, the court in which jurisdiction has been taken pursuant to subsection 1 of this section may at any time thereafter transfer jurisdiction of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age for further action with the prior consent of the receiving court;

(4) Upon motion of any party or upon its own motion at any time following a judgment of disposition or treatment pursuant to section 211.181, the court having jurisdiction of the cause may place the child or person seventeen years of age under the supervision of another juvenile court within or without the state pursuant to section 210.570 with the consent of the receiving court;

(5) Upon motion of any child or person seventeen years of age or his or her parent, the court having jurisdiction shall grant one change of judge pursuant to Missouri Supreme Court Rules;

(6) Upon the transfer of any matter, proceeding, jurisdiction or supervision of a child or person seventeen years of age, certified copies of all legal and social documents and records pertaining to the case on file with the clerk of the transferring juvenile court shall accompany the transfer.

3. In any proceeding involving any child or person seventeen years of age taken into custody in a county other than the county of the child's residence or the residence of a person seventeen years of age, the juvenile court of the county of the child's residence or the residence of a person seventeen years of age shall be notified of such taking into custody within seventy-two hours.

4. When an investigation by a juvenile officer pursuant to this section reveals that the only basis for action involves an alleged violation of section 167.031 involving a child who alleges to be home schooled, the juvenile officer shall contact a parent or parents of such child to verify that the child is being home schooled and not in violation of section 167.031 before making a report of such a violation. Any report of a violation of section 167.031 made by a juvenile officer regarding a child who is being home schooled shall be made to the prosecuting attorney of the county where the child legally resides.

**5. The disability or disease of a parent shall not constitute a basis for a determination that a child is a child in need of care or for the removal of custody of a child from the parent without a specific showing that there is a causal relation between the disability or disease and harm to the child.**

**211.202. MENTALLY DISORDERED CHILDREN, EVALUATION — DISPOSITION — REVIEW BY COURT.** — 1. If a child under the jurisdiction of the juvenile court appears to be mentally disordered, other than [mentally retarded or] **intellectually disabled** or developmentally disabled, the court, on its own motion or on the motion or petition of any interested party, may order the department of mental health to evaluate the child.

2. A mental health facility designated by the department of mental health shall perform within twenty days an evaluation of the child, on an outpatient basis if practicable, for the purpose of determining whether inpatient admission is appropriate because the following criteria are met:

- (1) The child has a mental disorder other than mental retardation or developmental disability, as all these terms are defined in chapter 630;
- (2) The child requires inpatient care and treatment for the protection of himself or others;
- (3) A mental health facility offers a program suitable for the child's needs;
- (4) A mental health facility is the least restrictive environment as the term "least restrictive environment" is defined in chapter 630.

3. If the facility determines, as a result of the evaluation, that it is appropriate to admit the child as an inpatient, the head of the mental health facility, or his designee, shall recommend the child for admission, subject to the availability of suitable accommodations, and send the juvenile court notice of the recommendation and a copy of the evaluation. Should the department evaluation recommend inpatient care, the child, his parent, guardian or counsel shall have the right to request an independent evaluation of the child. Within twenty days of the receipt of the notice and evaluation by the facility, or within twenty days of the receipt of the notice and evaluation from the independent examiner, the court may order, pursuant to a hearing, the child committed to the custody of the department of mental health for inpatient care and treatment, or may otherwise dispose of the matter; except, that no child shall be committed to a mental health facility under this section for other than care and treatment.

4. If the facility determines, as a result of the evaluation, that inpatient admission is not appropriate, the head of the mental health facility, or his designee, shall not recommend the child for admission as an inpatient. The head of the facility, or his designee, shall send to the court a notice that inpatient admission is not appropriate, along with a copy of the evaluation, within twenty days of completing the evaluation. If the child was evaluated on an inpatient basis, the juvenile court shall transfer the child from the department of mental health within twenty days of receipt of the notice and evaluation or set the matter for hearing within twenty days, giving notice of the hearing to the director of the facility as well as all others required by law.

5. If at any time the facility determines that it is no longer appropriate to provide inpatient care and treatment for the child committed by the juvenile court, but that such child appears to

qualify for placement under section 630.610, the head of the facility shall refer such child for placement. Subject to the availability of an appropriate placement, the department of mental health shall place any child who qualifies for placement under section 630.610. If no appropriate placement is available, the department of mental health shall discharge the child or make such other arrangements as it may deem appropriate and consistent with the child's welfare and safety. Notice of the placement or discharge shall be sent to the juvenile court which first ordered the child's detention.

6. The committing juvenile court shall conduct an annual review of the child's need for continued placement in the mental health facility.

**211.203. DEVELOPMENTALLY DISABLED CHILDREN, EVALUATION — DISPOSITION — REVIEW BY COURT.** — 1. If a child under the jurisdiction of the juvenile court appears to be mentally retarded or developmentally disabled, as these terms are defined in chapter 630, the court, on its own motion or on the motion or petition of any interested party, may order the department of mental health to evaluate the child.

2. A regional center designated by the department of mental health shall perform within twenty days a comprehensive evaluation, as defined in chapter 633, on an outpatient basis if practicable, for the purpose of determining the appropriateness of a referral to a [mental retardation] **developmental disability** facility operated or funded by the department of mental health. If it is determined by the regional center, as a result of the evaluation, to be appropriate to refer such child to a department [mental retardation] **developmental disability** facility under section 633.120 or a private [mental retardation] **developmental disability** facility under section 630.610, the regional center shall refer the evaluation to the appropriate [mental retardation] **developmental disability** facility.

3. If, as a result of reviewing the evaluation, the head of the [mental retardation] **developmental disability** facility, or his designee, determines that it is appropriate to admit such child as a resident, the head of the [mental retardation] **developmental disability** facility, or his **or her** designee, shall recommend the child for admission, subject to availability of suitable accommodations. The head of the regional center, or his designee, shall send the juvenile court notice of the recommendation for admission by the [mental retardation] **developmental disability** facility and a copy of the evaluation. Should the department evaluation recommend residential care and habilitation, the child, his parent, guardian or counsel shall have the right to request an independent evaluation of the child. Within twenty days of receipt of the notice and evaluation from the facility, or within twenty days of the receipt of the notice and evaluation from the independent examiner, the court may order, pursuant to a hearing, the child committed to the custody of the department of mental health for residential care and habilitation, or may otherwise dispose of the matter; except, that no child shall be committed to the department of mental health for other than residential care and habilitation. If the department proposes placement at, or transferring the child to, a department facility other than that designated in the order of the juvenile court, the department shall conduct a due process hearing within six days of such placement or transfer during which the head of the initiating facility shall have the burden to show that the placement or transfer is appropriate for the medical needs of the child. The head of the facility shall notify the court ordering detention or commitment and the child's last known attorney of record of such placement or transfer.

4. If, as a result of the evaluation, the regional center determines that it is not appropriate to admit such child as a resident in a [mental retardation] **developmental disability** facility, the regional center shall send a notice to the court that it is inappropriate to admit such child, along with a copy of the evaluation. If the child was evaluated on a residential basis, the juvenile court shall transfer the child from the department within five days of receiving the notice and evaluation

or set the matter for hearing within twenty days, giving notice of the hearing to the director of the facility as well as all others required by law.

5. If at any time the [mental retardation] **developmental disability** facility determines that it is no longer appropriate to provide residential habilitation for the child committed by the juvenile court, but that such child appears to qualify for placement under section 630.610, the head of the facility shall refer such child for placement. Subject to the availability of an appropriate placement, the department shall place any child who qualifies for placement under section 630.610. If no appropriate placement is available, the department shall discharge the child or make such other arrangements as it may deem appropriate and consistent with the child's welfare and safety. Notice of the placement or discharge shall be sent to the juvenile court which first ordered the child's detention.

6. The committing court shall conduct an annual review of the child's need for continued placement at the [mental retardation] **developmental disability** facility.

**211.206. DUTIES OF DEPARTMENT OF MENTAL HEALTH — DISCHARGE BY DEPARTMENT — NOTICE — JURISDICTION OF COURT.** — 1. For each child committed to the department of mental health by the juvenile court, the director of the department of mental health, or his designee, shall prepare an individualized treatment or habilitation plan, as defined in chapter 630, within thirty days of the admission for treatment or habilitation. The status of each child shall be reviewed at least once every thirty days. Copies of all individualized treatment plans, habilitation plans, and periodic reviews shall be sent to the committing juvenile court.

2. The department of mental health shall discharge a child committed to it by the juvenile court pursuant to sections 211.202 and 211.203 if the head of a mental health facility or [mental retardation] **developmental disability** facility, or his designee, determines, in an evaluation or a periodic review, that any of the following conditions are true:

(1) A child committed to a mental health facility no longer has a mental disorder other than [mental retardation] **intellectual disability** or developmental disability;

(2) A child committed to a [mental retardation] **developmental disability** facility is not [mentally retarded] **intellectually disabled** or developmentally disabled;

(3) The condition of the child is no longer such that, for the protection of the child or others, the child requires inpatient hospitalization or residential habilitation;

(4) The mental health facility or [mental retardation] **developmental disability** facility does not offer a program which best meets the child's needs;

(5) The mental health facility or [mental retardation] **developmental disability** facility does not provide the least restrictive environment, as defined in section 630.005, which is consistent with the child's welfare and safety.

3. If the committing court specifically retained jurisdiction of the child by the terms of its order committing the child to the department of mental health, notice of the discharge, accompanied by a diagnosis and recommendations for placement of the child, shall be forwarded to the court at least twenty days before such discharge date. Unless within twenty days of receipt of notice of discharge the juvenile court orders the child to be brought before it for appropriate proceedings, jurisdiction of that court over the child shall terminate at the end of such twenty days.

**211.207. YOUTHSERVICESDIVISIONMAYREQUEST EVALUATION — PROCEDURE AFTER EVALUATION — TRANSFER OF CUSTODY.** — 1. If a child is committed to the division of youth services and subsequently appears to be mentally disordered, as defined in chapter 630, the division shall refer the child to the department of mental health for evaluation. The evaluation shall be performed within twenty days by a mental health facility or regional center operated by the department of mental health and, if practicable, on an outpatient basis, for the purpose of determining whether inpatient care at a mental health facility or residential habilitation in a [mental

retardation] **developmental disability** facility is appropriate because the child meets the criteria specified in subsection 2 of section 211.202 or in section 633.120, respectively.

2. If, as a result of the evaluation, the director of the department of mental health, or his designee, determines that the child is not mentally disordered so as to require inpatient care and treatment in a mental health facility or residential habilitation in a [mental retardation] **developmental disability** facility, the director, or his designee, shall so notify the director of the division of youth services. If the child was evaluated on an inpatient or residential basis, the child shall be returned to the division of youth services.

3. If the director of the department of mental health, or his designee, determines that the child requires inpatient care and treatment at a mental health facility operated by the department of mental health or residential habilitation in a [mental retardation] **developmental disability** facility operated by the department of mental health, the director, or his designee, shall notify the director of the division of youth services that admission is appropriate. The director of the division may transfer the physical custody of the child to the department of mental health for admission to a department of mental health facility and the department of mental health shall accept the transfer subject to the availability of suitable accommodations.

4. The director of the department of mental health, or his designee, shall cause an individualized treatment or habilitation plan to be prepared by the mental health facility or [mental retardation] **developmental disability** facility for each child. The mental health facility or [mental retardation] **developmental disability** facility shall review the status of the child at least once every thirty days. If, as a result of any such review, it is determined that inpatient care and treatment at a mental health facility or residential habilitation in a [mental retardation] **developmental disability** facility is no longer appropriate for the child because the child does not meet the criteria specified in subsection 2 of section 211.202 or in section 633.120, respectively, the director of the department of mental health, or his designee, shall so notify the director of the division of youth services and shall return the child to the custody of the division.

5. If a child for any reason ceases to come under the jurisdiction of the division of youth services, he may be retained in a mental health facility or [mental retardation] **developmental disability** facility only as otherwise provided by law.

**211.447. PETITION TO TERMINATE PARENTAL RIGHTS FILED, WHEN — JUVENILE COURT MAY TERMINATE PARENTAL RIGHTS, WHEN — INVESTIGATION TO BE MADE — GROUNDS FOR TERMINATION.** — 1. Any information that could justify the filing of a petition to terminate parental rights may be referred to the juvenile officer by any person. The juvenile officer shall make a preliminary inquiry and if it does not appear to the juvenile officer that a petition should be filed, such officer shall so notify the informant in writing within thirty days of the referral. Such notification shall include the reasons that the petition will not be filed. Thereupon, the informant may bring the matter directly to the attention of the judge of the juvenile court by presenting the information in writing, and if it appears to the judge that the information could justify the filing of a petition, the judge may order the juvenile officer to take further action, including making a further preliminary inquiry or filing a petition.

2. Except as provided for in subsection 4 of this section, a petition to terminate the parental rights of the child's parent or parents shall be filed by the juvenile officer or the division, or if such a petition has been filed by another party, the juvenile officer or the division shall seek to be joined as a party to the petition, when:

(1) Information available to the juvenile officer or the division establishes that the child has been in foster care for at least fifteen of the most recent twenty-two months; or

(2) A court of competent jurisdiction has determined the child to be an abandoned infant. For purposes of this subdivision, an "infant" means any child one year of age or under at the time of filing of the petition. The court may find that an infant has been abandoned if:

(a) The parent has left the child under circumstances that the identity of the child was unknown and could not be ascertained, despite diligent searching, and the parent has not come forward to claim the child; or

(b) The parent has, without good cause, left the child without any provision for parental support and without making arrangements to visit or communicate with the child, although able to do so; or

(3) A court of competent jurisdiction has determined that the parent has:

(a) Committed murder of another child of the parent; or

(b) Committed voluntary manslaughter of another child of the parent; or

(c) Aided or abetted, attempted, conspired or solicited to commit such a murder or voluntary manslaughter; or

(d) Committed a felony assault that resulted in serious bodily injury to the child or to another child of the parent.

3. A termination of parental rights petition shall be filed by the juvenile officer or the division, or if such a petition has been filed by another party, the juvenile officer or the division shall seek to be joined as a party to the petition, within sixty days of the judicial determinations required in subsection 2 of this section, except as provided in subsection 4 of this section. Failure to comply with this requirement shall not deprive the court of jurisdiction to adjudicate a petition for termination of parental rights which is filed outside of sixty days.

4. If grounds exist for termination of parental rights pursuant to subsection 2 of this section, the juvenile officer or the division may, but is not required to, file a petition to terminate the parental rights of the child's parent or parents if:

(1) The child is being cared for by a relative; or

(2) There exists a compelling reason for determining that filing such a petition would not be in the best interest of the child, as documented in the permanency plan which shall be made available for court review; or

(3) The family of the child has not been provided such services as provided for in section 211.183.

5. The juvenile officer or the division may file a petition to terminate the parental rights of the child's parent when it appears that one or more of the following grounds for termination exist:

(1) The child has been abandoned. For purposes of this subdivision a "child" means any child over one year of age at the time of filing of the petition. The court shall find that the child has been abandoned if, for a period of six months or longer:

(a) The parent has left the child under such circumstances that the identity of the child was unknown and could not be ascertained, despite diligent searching, and the parent has not come forward to claim the child; or

(b) The parent has, without good cause, left the child without any provision for parental support and without making arrangements to visit or communicate with the child, although able to do so;

(2) The child has been abused or neglected. In determining whether to terminate parental rights pursuant to this subdivision, the court shall consider and make findings on the following conditions or acts of the parent:

(a) A mental condition which is shown by competent evidence either to be permanent or such that there is no reasonable likelihood that the condition can be reversed and which renders the parent unable to knowingly provide the child the necessary care, custody and control;

(b) Chemical dependency which prevents the parent from consistently providing the necessary care, custody and control of the child and which cannot be treated so as to enable the parent to consistently provide such care, custody and control;

(c) A severe act or recurrent acts of physical, emotional or sexual abuse toward the child or any child in the family by the parent, including an act of incest, or by another under circumstances

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that indicate that the parent knew or should have known that such acts were being committed toward the child or any child in the family; or

(d) Repeated or continuous failure by the parent, although physically or financially able, to provide the child with adequate food, clothing, shelter, or education as defined by law, or other care and control necessary for the child's physical, mental, or emotional health and development.

**Nothing in this subdivision shall be construed to permit discrimination on the basis of disability or disease;**

(3) The child has been under the jurisdiction of the juvenile court for a period of one year, and the court finds that the conditions which led to the assumption of jurisdiction still persist, or conditions of a potentially harmful nature continue to exist, that there is little likelihood that those conditions will be remedied at an early date so that the child can be returned to the parent in the near future, or the continuation of the parent-child relationship greatly diminishes the child's prospects for early integration into a stable and permanent home. In determining whether to terminate parental rights under this subdivision, the court shall consider and make findings on the following:

(a) The terms of a social service plan entered into by the parent and the division and the extent to which the parties have made progress in complying with those terms;

(b) The success or failure of the efforts of the juvenile officer, the division or other agency to aid the parent on a continuing basis in adjusting his circumstances or conduct to provide a proper home for the child;

(c) A mental condition which is shown by competent evidence either to be permanent or such that there is no reasonable likelihood that the condition can be reversed and which renders the parent unable to knowingly provide the child the necessary care, custody and control;

(d) Chemical dependency which prevents the parent from consistently providing the necessary care, custody and control over the child and which cannot be treated so as to enable the parent to consistently provide such care, custody and control; or

(4) The parent has been found guilty or pled guilty to a felony violation of chapter 566 when the child or any child in the family was a victim, or a violation of section 568.020 when the child or any child in the family was a victim. As used in this subdivision, a "child" means any person who was under eighteen years of age at the time of the crime and who resided with such parent or was related within the third degree of consanguinity or affinity to such parent; or

(5) The child was conceived and born as a result of an act of forcible rape. When the biological father has pled guilty to, or is convicted of, the forcible rape of the birth mother, such a plea or conviction shall be conclusive evidence supporting the termination of the biological father's parental rights; or

(6) The parent is unfit to be a party to the parent and child relationship because of a consistent pattern of committing a specific abuse, including but not limited to, abuses as defined in section 455.010, child abuse or drug abuse before the child or of specific conditions directly relating to the parent and child relationship either of which are determined by the court to be of a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental or emotional needs of the child. It is presumed that a parent is unfit to be a party to the parent-child relationship upon a showing that within a three-year period immediately prior to the termination adjudication, the parent's parental rights to one or more other children were involuntarily terminated pursuant to subsection 2 or 4 of this section or subdivisions (1), (2), (3) or (4) of subsection 5 of this section or similar laws of other states.

6. The juvenile court may terminate the rights of a parent to a child upon a petition filed by the juvenile officer or the division, or in adoption cases, by a prospective parent, if the court finds that the termination is in the best interest of the child and when it appears by clear, cogent and convincing evidence that grounds exist for termination pursuant to subsection 2, 4 or 5 of this section.

7. When considering whether to terminate the parent-child relationship pursuant to subsection 2 or 4 of this section or subdivision (1), (2), (3) or (4) of subsection 5 of this section, the court shall evaluate and make findings on the following factors, when appropriate and applicable to the case:

- (1) The emotional ties to the birth parent;
- (2) The extent to which the parent has maintained regular visitation or other contact with the child;
- (3) The extent of payment by the parent for the cost of care and maintenance of the child when financially able to do so including the time that the child is in the custody of the division or other child-placing agency;
- (4) Whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent within an ascertainable period of time;
- (5) The parent's disinterest in or lack of commitment to the child;
- (6) The conviction of the parent of a felony offense that the court finds is of such a nature that the child will be deprived of a stable home for a period of years; provided, however, that incarceration in and of itself shall not be grounds for termination of parental rights;
- (7) Deliberate acts of the parent or acts of another of which the parent knew or should have known that subjects the child to a substantial risk of physical or mental harm.

8. The court may attach little or no weight to infrequent visitations, communications, or contributions. It is irrelevant in a termination proceeding that the maintenance of the parent-child relationship may serve as an inducement for the parent's rehabilitation.

9. In actions for adoption pursuant to chapter 453, the court may hear and determine the issues raised in a petition for adoption containing a prayer for termination of parental rights filed with the same effect as a petition permitted pursuant to subsection 2, 4, or 5 of this section.

**10. The disability or disease of a parent shall not constitute a basis for a determination that a child is a child in need of care, for the removal of custody of a child from the parent, or for the termination of parent rights without a specific showing that there is a causal relation between the disability or disease and harm to the child.**

**402.210. BOARD OF TRUSTEES — MEMBERS, APPOINTMENT, TERM, QUALIFICATIONS, EXPENSES — ANNUAL ACCOUNTING — RULES AND REGULATIONS.** — 1. There is hereby created the "Missouri Family Trust Board of Trustees", which shall be a body corporate and an instrumentality of the state. The board of trustees shall consist of nine persons appointed by the governor with the advice and consent of the senate. The members' terms of office shall be three years and until their successors are appointed and qualified. The trustees shall be persons who are not prohibited from serving by sections 105.450 to 105.482 and who are not otherwise employed by the department of mental health. The board of trustees shall be composed of the following:

(1) Three members of the immediate family of persons who have a disability or are the recipients of services provided by the department in the treatment of mental illness. The advisory council for comprehensive psychiatric services, created pursuant to section 632.020, shall submit a panel of nine names to the governor, from which he shall appoint three. One shall be appointed for a term of one year, one for two years, and one for three years. Thereafter, as the term of a trustee expires each year, the Missouri advisory council for comprehensive psychiatric services shall submit to the governor a panel of not less than three nor more than five proposed trustees, and the governor shall appoint one trustee from such panel for a term of three years;

(2) Three members of the immediate family of persons who are recipients of services provided by the department in the habilitation of [the mentally retarded or developmentally disabled] **persons with intellectual disabilities or developmental disabilities**. The Missouri [advisory council on mental retardation and] **developmental disabilities council**, created pursuant to section 633.020, shall submit a panel of nine names to the governor, from which he shall appoint three. One shall be appointed for one year, one for two years and one for three years.



Thereafter, as the term of a trustee expires each year, the Missouri [advisory council on mental retardation and] developmental disabilities **council** shall submit to the governor a panel of not less than three nor more than five proposed trustees, and the governor shall appoint one trustee from such panel for a term of three years;

(3) Three persons who are recognized for their expertise in general business matters and procedures. Of the three business people to be appointed by the governor, one shall be appointed for one year, one for two years and one for three years. Thereafter, as the term of a trustee expires each year, the governor shall appoint one business person as trustee for a term of three years.

2. The trustees shall receive no compensation for their services. The trust shall reimburse the trustees for necessary expenses actually incurred in the performance of their duties.

3. As used in this section, the term "immediate family" includes spouse, parents, parents of spouse, children, spouses of children and siblings.

4. The board of trustees shall be subject to the provisions of sections 610.010 to 610.120.

5. The board of trustees shall annually prepare or cause to be prepared an accounting of the trust funds and shall transmit a copy of the accounting to the governor, the president pro tempore of the senate and the speaker of the house of representatives.

6. The board of trustees shall establish policies, procedures and other rules and regulations necessary to implement the provisions of sections 402.199 to 402.220.

**453.070. INVESTIGATIONS PRECONDITION FOR ADOPTION — CONTENTS OF INVESTIGATION REPORT — HOW CONDUCTED — ASSESSMENTS OF ADOPTIVE PARENTS, CONTENTS — WAIVING OF INVESTIGATION, WHEN — FEES — PREFERENCE TO FOSTER PARENTS, WHEN.** — 1. Except as provided in subsection 5 of this section, no decree for the adoption of a child under eighteen years of age shall be entered for the petitioner or petitioners in such adoption as ordered by the juvenile court having jurisdiction, until a full investigation, which includes an assessment of the adoptive parents, an appropriate postplacement assessment and a summary of written reports as provided for in section 453.026, and any other pertinent information relevant to whether the child is suitable for adoption by the petitioner and whether the petitioner is suitable as a parent for the child, has been made. The report shall also include a statement to the effect that the child has been considered as a potential subsidy recipient.

2. Such investigation shall be made, as directed by the court having jurisdiction, either by the division of family services of the state department of social services, a juvenile court officer, a licensed child-placement agency, a social worker licensed pursuant to chapter 337, or other suitable person appointed by the court. The results of such investigation shall be embodied in a written report that shall be submitted to the court within ninety days of the request for the investigation.

3. The department of social services, division of family services, shall develop rules and regulations regarding the content of the assessment of the petitioner or petitioners. The content of the assessment shall include but not be limited to, a report on the condition of the petitioner's home and information on the petitioner's education, financial, marital, medical and psychological status and criminal background check. If an assessment is conducted after August 28, 1997, but prior to the promulgation of rules and regulations by the department concerning the contents of such assessment, any discrepancy between the contents of the actual assessment and the contents of the assessment required by department rule shall not be used as the sole basis for invalidating an adoption. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536.

4. The assessment of petitioner or petitioners shall be submitted to the petitioner and to the court prior to the scheduled hearing of the adoptive petition.

5. In cases where the adoption or custody involves a child under eighteen years of age that is the natural child of one of the petitioners and where all of the parents required by this chapter to give consent to the adoption or transfer of custody have given such consent, the juvenile court may

waive the investigation and report, except the criminal background check, and enter the decree for the adoption or order the transfer of custody without such investigation and report.

6. In the case of an investigation and report made by the division of family services by order of the court, the court may order the payment of a reasonable fee by the petitioner to cover the costs of the investigation and report.

7. Any adult person or persons over the age of eighteen, who, as foster parent or parents, have cared for a foster child continuously for a period of nine months or more and bonding has occurred as evidenced by the positive emotional and physical interaction between the foster parent and child, may apply to such authorized agency for the placement of such child with them for the purpose of adoption if the child is eligible for adoption. The agency and court shall give preference and first consideration for adoptive placements to foster parents. However, the final determination of the propriety of the adoption of such foster child shall be within the sole discretion of the court.

**8. (1) Nothing in this section shall be construed to permit discrimination on the basis of disability or disease of a prospective adoptive parent.**

**(2) The disability or disease of a prospective adoptive parent shall not constitute a basis for a determination that the petitioner is unfit or not suitable to be an adoptive parent without a specific showing that there is a causal relationship between the disability or disease and a substantial and significant risk of harm to a child.**

**475.121. ADMISSION TO MENTAL HEALTH OR DEVELOPMENTAL DISABILITY FACILITIES.**

— 1. Pursuant to an application alleging that the admission of the ward to a particular mental health or [mental retardation] **developmental disability** facility is appropriate and in the best interest of the ward, the court may authorize the guardian or limited guardian to admit the ward to such facility. Such application shall be accompanied by a physician's statement setting forth the factual basis for the need for continued admission including a statement of the ward's current diagnosis, plan of care, treatment or habilitation and the probable duration of the admission.

2. If the court finds that the application establishes the need for inpatient care, habilitation or treatment of the ward in a mental health or [mental retardation] **developmental disability** facility without the adduction of further evidence, it shall issue an order authorizing the guardian to admit the ward to such facility in accordance with the provisions of section 632.120 or section 633.120.

3. The court may, in its discretion, appoint an attorney to represent the ward. The attorney shall meet with the ward and may request a hearing on the application. If a hearing is requested, the court shall set the application for hearing. If there is no request for hearing, the court may rule on the application without a hearing. The attorney for the ward shall be allowed a reasonable fee for his services rendered to be assessed as costs under section 475.085.

4. Proceedings under this section may be combined with adjudication proceedings under section 475.075.

**475.355. TEMPORARY EMERGENCY DETENTION.** — 1. If, upon the filing of a petition for the adjudication of incapacity or disability it appears that the respondent, by reason of a mental disorder or [mental retardation] **intellectual disability or developmental disability**, presents a likelihood of serious physical harm to himself or others, he may be detained in accordance with the provisions of chapter 632 if suffering from a mental disorder, or chapter 633 if [mentally retarded] **the person has an intellectual or developmental disability**, pending a hearing on the petition for adjudication.

2. As used in this section, the terms "mental disorder" and "mental retardation" shall be as defined in chapter 630 and the term "likelihood of serious physical harm to himself or others" shall be as defined in chapter 632.

3. The procedure for obtaining an order of temporary emergency detention shall be as prescribed by chapter 632, relating to prehearing detention of mentally disordered persons.

**476.537. JUDGE LEAVING NO SURVIVING SPOUSE OR SURVIVING SPOUSE DIES — DEPENDENTS TO RECEIVE BENEFITS.** — In the event that any judge leaving no surviving spouse or any surviving spouse receiving benefits under section 476.535 as a beneficiary dies leaving dependents who are unable to care for or support themselves because of any [mental retardation] **intellectual disability or developmental disability**, disease or disability, or any physical [handicap or] disability, the benefits that would be received by a surviving spouse on the judge's death if there were a surviving spouse or the benefits received by such surviving spouse, as the case may be, shall be paid to such surviving dependent for the remainder of such dependent's life. If the judge or such surviving spouse leaves more than one dependent who would be eligible for benefits under this section, then each eligible dependent shall receive a pro rata share of the amount that would be paid to a surviving spouse under section 476.535.

**552.015. EVIDENCE OF MENTAL DISEASE OR DEFECT, ADMISSIBLE, WHEN.** — 1. Evidence that the defendant did or did not suffer mental disease or defect shall not be admissible in a criminal prosecution except as provided in this section.

2. Evidence that the defendant did or did not suffer from a mental disease or defect shall be admissible in a criminal proceeding:

(1) To determine whether the defendant lacks capacity to understand the proceedings against him or to assist in his own defense as provided in section 552.020;

(2) To determine whether the defendant is criminally responsible as provided in section 552.030;

(3) To determine whether a person committed to the director of the department of mental health pursuant to this chapter shall be released as provided in section 552.040;

(4) To determine if a person in the custody of any correctional institution needs care in a mental hospital as provided in section 552.050;

(5) To determine whether a person condemned to death shall be executed as provided in sections 552.060 and 552.070;

(6) To determine whether or not the defendant, if found guilty, should be sentenced to death as provided in chapter 558;

(7) To determine the appropriate disposition of a defendant, if guilty, as provided in sections 557.011 and 557.031;

(8) To prove that the defendant did or did not have a state of mind which is an element of the offense;

(9) To determine if the defendant, if found not guilty by reason of mental disease or defect, should be immediately conditionally released by the court under the provisions of section 552.040 to the community or committed to a mental health or [mental retardation] **developmental disability** facility. This question shall not be asked regarding defendants charged with any of the dangerous felonies as defined in section 556.061, or with those crimes set forth in subsection 11 of section 552.040, or the attempts thereof.

**552.020. LACK OF MENTAL CAPACITY BAR TO TRIAL OR CONVICTION — PSYCHIATRIC EXAMINATION, WHEN, REPORT OF — PLEA OF NOT GUILTY BY REASON OF MENTAL DISEASE, SUPPORTING PRETRIAL EVALUATION, CONDITIONS OF RELEASE — COMMITMENT TO HOSPITAL, WHEN — STATEMENTS OF ACCUSED INADMISSIBLE, WHEN — JURY MAY BE IMPANELED TO DETERMINE MENTAL FITNESS.** — 1. No person who as a result of mental disease or defect lacks capacity to understand the proceedings against him or to assist in his own defense shall be tried, convicted or sentenced for the commission of an offense so long as the incapacity endures.

2. Whenever any judge has reasonable cause to believe that the accused lacks mental fitness to proceed, he shall, upon his own motion or upon motion filed by the state or by or on behalf of

the accused, by order of record, appoint one or more private psychiatrists or psychologists, as defined in section 632.005, or physicians with a minimum of one year training or experience in providing treatment or services to [mentally retarded or mentally ill individuals] **persons with an intellectual disability or developmental disability or mental illness**, who are neither employees nor contractors of the department of mental health for purposes of performing the examination in question, to examine the accused; or shall direct the director to have the accused so examined by one or more psychiatrists or psychologists, as defined in section 632.005, or physicians with a minimum of one year training or experience in providing treatment or services to [mentally retarded or mentally ill individuals] **persons with an intellectual disability, developmental disability, or mental illness**. The order shall direct that a written report or reports of such examination be filed with the clerk of the court. No private physician, psychiatrist, or psychologist shall be appointed by the court unless he has consented to act. The examinations ordered shall be made at such time and place and under such conditions as the court deems proper; except that, if the order directs the director of the department to have the accused examined, the director, or his designee, shall determine the time, place and conditions under which the examination shall be conducted. The order may include provisions for the interview of witnesses and may require the provision of police reports to the department for use in evaluations. The department shall establish standards and provide training for those individuals performing examinations pursuant to this section and section 552.030. No individual who is employed by or contracts with the department shall be designated to perform an examination pursuant to this chapter unless the individual meets the qualifications so established by the department. Any examination performed pursuant to this subsection shall be completed and filed with the court within sixty days of the order unless the court for good cause orders otherwise. Nothing in this section or section 552.030 shall be construed to permit psychologists to engage in any activity not authorized by chapter 337. One pretrial evaluation shall be provided at no charge to the defendant by the department. All costs of subsequent evaluations shall be assessed to the party requesting the evaluation.

3. A report of the examination made under this section shall include:

- (1) Detailed findings;
- (2) An opinion as to whether the accused has a mental disease or defect;
- (3) An opinion based upon a reasonable degree of medical or psychological certainty as to whether the accused, as a result of a mental disease or defect, lacks capacity to understand the proceedings against him or to assist in his own defense;
- (4) A recommendation as to whether the accused should be held in custody in a suitable hospital facility for treatment pending determination, by the court, of mental fitness to proceed; and
- (5) A recommendation as to whether the accused, if found by the court to be mentally fit to proceed, should be detained in such hospital facility pending further proceedings.

4. If the accused has pleaded lack of responsibility due to mental disease or defect or has given the written notice provided in subsection 2 of section 552.030, the court shall order the report of the examination conducted pursuant to this section to include, in addition to the information required in subsection 3 of this section, an opinion as to whether at the time of the alleged criminal conduct the accused, as a result of mental disease or defect, did not know or appreciate the nature, quality, or wrongfulness of his conduct or as a result of mental disease or defect was incapable of conforming his conduct to the requirements of law. A plea of not guilty by reason of mental disease or defect shall not be accepted by the court in the absence of any such pretrial evaluation which supports such a defense. In addition, if the accused has pleaded not guilty by reason of mental disease or defect, and the alleged crime is not a dangerous felony as defined in section 556.061, or those crimes set forth in subsection 11 of section 552.040, or the attempts thereof, the court shall order the report of the examination to include an opinion as to whether or not the accused should be immediately conditionally released by the court pursuant to the provisions of section 552.040 or should be committed to a mental health or [mental retardation]

**developmental disability** facility. If such an evaluation is conducted at the direction of the director of the department of mental health, the court shall also order the report of the examination to include an opinion as to the conditions of release which are consistent with the needs of the accused and the interest of public safety, including, but not limited to, the following factors:

- (1) Location and degree of necessary supervision of housing;
- (2) Location of and responsibilities for appropriate psychiatric, rehabilitation and aftercare services, including the frequency of such services;
- (3) Medication follow-up, including necessary testing to monitor medication compliance;
- (4) At least monthly contact with the department's forensic case monitor;
- (5) Any other conditions or supervision as may be warranted by the circumstances of the case.

5. If the report contains the recommendation that the accused should be committed to or held in a suitable hospital facility pending determination of the issue of mental fitness to proceed, and if the accused is not admitted to bail or released on other conditions, the court may order that the accused be committed to or held in a suitable hospital facility pending determination of the issue of mental fitness to proceed.

6. The clerk of the court shall deliver copies of the report to the prosecuting or circuit attorney and to the accused or his counsel. The report shall not be a public record or open to the public. Within ten days after the filing of the report, both the defendant and the state shall, upon written request, be entitled to an order granting them an examination of the accused by a psychiatrist or psychologist, as defined in section 632.005, or a physician with a minimum of one year training or experience in providing treatment or services to [mentally retarded or mentally ill individuals] **persons with an intellectual disability or developmental disability or mental illness**, of their own choosing and at their own expense. An examination performed pursuant to this subsection shall be completed and a report filed with the court within sixty days of the date it is received by the department or private psychiatrist, psychologist or physician unless the court, for good cause, orders otherwise. A copy shall be furnished the opposing party.

7. If neither the state nor the accused nor his counsel requests a second examination relative to fitness to proceed or contests the findings of the report referred to in subsections 2 and 3 of this section, the court may make a determination and finding on the basis of the report filed or may hold a hearing on its own motion. If any such opinion is contested, the court shall hold a hearing on the issue. The court shall determine the issue of mental fitness to proceed and may impanel a jury of six persons to assist in making the determination. The report or reports may be received in evidence at any hearing on the issue but the party contesting any opinion therein shall have the right to summon and to cross-examine the examiner who rendered such opinion and to offer evidence upon the issue.

8. At a hearing on the issue pursuant to subsection 7 of this section, the accused is presumed to have the mental fitness to proceed. The burden of proving that the accused does not have the mental fitness to proceed is by a preponderance of the evidence and the burden of going forward with the evidence is on the party raising the issue. The burden of going forward shall be on the state if the court raises the issue.

9. If the court determines that the accused lacks mental fitness to proceed, the criminal proceedings shall be suspended and the court shall commit him to the director of the department of mental health.

10. Any person committed pursuant to subsection 9 of this section shall be entitled to the writ of habeas corpus upon proper petition to the court that committed him. The issue of the mental fitness to proceed after commitment under subsection 9 of this section may also be raised by a motion filed by the director of the department of mental health or by the state, alleging the mental fitness of the accused to proceed. A report relating to the issue of the accused's mental fitness to proceed may be attached thereto. If the motion is not contested by the accused or his counsel or if after a hearing on a motion the court finds the accused mentally fit to proceed, or if he is ordered

discharged from the director's custody upon a habeas corpus hearing, the criminal proceedings shall be resumed.

11. The following provisions shall apply after a commitment as provided in this section:

(1) Six months after such commitment, the court which ordered the accused committed shall order an examination by the head of the facility in which the accused is committed, or a qualified designee, to ascertain whether the accused is mentally fit to proceed and if not, whether there is a substantial probability that the accused will attain the mental fitness to proceed to trial in the foreseeable future. The order shall direct that written report or reports of the examination be filed with the clerk of the court within thirty days and the clerk shall deliver copies to the prosecuting attorney or circuit attorney and to the accused or his counsel. The report required by this subsection shall conform to the requirements under subsection 3 of this section with the additional requirement that it include an opinion, if the accused lacks mental fitness to proceed, as to whether there is a substantial probability that the accused will attain the mental fitness to proceed in the foreseeable future;

(2) Within ten days after the filing of the report, both the accused and the state shall, upon written request, be entitled to an order granting them an examination of the accused by a psychiatrist or psychologist, as defined in section 632.005, or a physician with a minimum of one year training or experience in providing treatment or services to [mentally retarded or mentally ill individuals] **persons with an intellectual disability or developmental disability or mental illness**, of their own choosing and at their own expense. An examination performed pursuant to this subdivision shall be completed and filed with the court within thirty days unless the court, for good cause, orders otherwise. A copy shall be furnished to the opposing party;

(3) If neither the state nor the accused nor his counsel requests a second examination relative to fitness to proceed or contests the findings of the report referred to in subdivision (1) of this subsection, the court may make a determination and finding on the basis of the report filed, or may hold a hearing on its own motion. If any such opinion is contested, the court shall hold a hearing on the issue. The report or reports may be received in evidence at any hearing on the issue but the party contesting any opinion therein relative to fitness to proceed shall have the right to summon and to cross-examine the examiner who rendered such opinion and to offer evidence upon the issue;

(4) If the accused is found mentally fit to proceed, the criminal proceedings shall be resumed;

(5) If it is found that the accused lacks mental fitness to proceed but there is a substantial probability the accused will be mentally fit to proceed in the reasonably foreseeable future, the court shall continue such commitment for a period not longer than six months, after which the court shall reinstitute the proceedings required under subdivision (1) of this subsection;

(6) If it is found that the accused lacks mental fitness to proceed and there is no substantial probability that the accused will be mentally fit to proceed in the reasonably foreseeable future, the court shall dismiss the charges without prejudice and the accused shall be discharged, but only if proper proceedings have been filed under chapter 632 or chapter 475, in which case those sections and no others will be applicable. The probate division of the circuit court shall have concurrent jurisdiction over the accused upon the filing of a proper pleading to determine if the accused shall be involuntarily detained under chapter 632, or to determine if the accused shall be declared incapacitated under chapter 475, and approved for admission by the guardian under section 632.120 or 633.120, to a mental health or [retardation] **developmental disability** facility. When such proceedings are filed, the criminal charges shall be dismissed without prejudice if the court finds that the accused is mentally ill and should be committed or that he is incapacitated and should have a guardian appointed. The period of limitation on prosecuting any criminal offense shall be tolled during the period that the accused lacks mental fitness to proceed.

12. If the question of the accused's mental fitness to proceed was raised after a jury was impaneled to try the issues raised by a plea of not guilty and the court determines that the accused lacks the mental fitness to proceed or orders the accused committed for an examination pursuant to this section, the court may declare a mistrial. Declaration of a mistrial under these

circumstances, or dismissal of the charges pursuant to subsection 11 of this section, does not constitute jeopardy, nor does it prohibit the trial, sentencing or execution of the accused for the same offense after he has been found restored to competency.

13. The result of any examinations made pursuant to this section shall not be a public record or open to the public.

14. No statement made by the accused in the course of any examination or treatment pursuant to this section and no information received by any examiner or other person in the course thereof, whether such examination or treatment was made with or without the consent of the accused or upon his motion or upon that of others, shall be admitted in evidence against the accused on the issue of guilt in any criminal proceeding then or thereafter pending in any court, state or federal. A finding by the court that the accused is mentally fit to proceed shall in no way prejudice the accused in a defense to the crime charged on the ground that at the time thereof he was afflicted with a mental disease or defect excluding responsibility, nor shall such finding by the court be introduced in evidence on that issue nor otherwise be brought to the notice of the jury.

**552.030. MENTAL DISEASE OR DEFECT, NOT GUILTY PLEA BASED ON, PRETRIAL INVESTIGATION — EVIDENCE — NOTICE OF DEFENSE — EXAMINATION, REPORTS CONFIDENTIAL — STATEMENTS NOT ADMISSIBLE, EXCEPTION — PRESUMPTION OF COMPETENCY — VERDICT CONTENTS — ORDER OF COMMITMENT TO DEPARTMENT. — 1.** A person is not responsible for criminal conduct if, at the time of such conduct, as a result of mental disease or defect such person was incapable of knowing and appreciating the nature, quality, or wrongfulness of such person's conduct.

2. Evidence of mental disease or defect excluding responsibility shall not be admissible at trial of the accused unless the accused, at the time of entering such accused's plea to the charge, pleads not guilty by reason of mental disease or defect excluding responsibility, or unless within ten days after a plea of not guilty, or at such later date as the court may for good cause permit, the accused files a written notice of such accused's purpose to rely on such defense. Such a plea or notice shall not deprive the accused of other defenses. The state may accept a defense of mental disease or defect excluding responsibility, whether raised by plea or written notice, if the accused has no other defense and files a written notice to that effect. The state shall not accept a defense of mental disease or defect excluding responsibility in the absence of any pretrial evaluation as described in this section or section 552.020. Upon the state's acceptance of the defense of mental disease or defect excluding responsibility, the court shall proceed to order the commitment of the accused as provided in section 552.040 in cases of persons acquitted on the ground of mental disease or defect excluding responsibility, and further proceedings shall be had regarding the confinement and release of the accused as provided in section 552.040.

3. Whenever the accused has pleaded mental disease or defect excluding responsibility or has given the written notice provided in subsection 2 of this section, and such defense has not been accepted as provided in subsection 2 of this section, the court shall, after notice and upon motion of either the state or the accused, by order of record, appoint one or more private psychiatrists or psychologists, as defined in section 632.005, or physicians with a minimum of one year training or experience in providing treatment or services to [mentally retarded or mentally ill individuals] **persons with an intellectual disability or developmental disability or mental illness**, who are neither employees nor contractors of the department of mental health for purposes of performing the examination in question, to examine the accused, or shall direct the director of the department of mental health, or the director's designee, to have the accused so examined by one or more psychiatrists or psychologists, as defined in section 632.005, or physicians with a minimum of one year training or experience in providing treatment or services to [mentally retarded or mentally ill individuals] **persons with an intellectual disability or developmental disability or mental illness** designated by the director, or the director's designee, as qualified to perform examinations pursuant to this chapter. The order shall direct that written report or reports of such examination

be filed with the clerk of the court. No private psychiatrist, psychologist, or physician shall be appointed by the court unless such psychiatrist, psychologist or physician has consented to act. The examinations ordered shall be made at such time and place and under such conditions as the court deems proper; except that, if the order directs the director of the department of mental health to have the accused examined, the director, or the director's designee, shall determine the time, place and conditions under which the examination shall be conducted. The order may include provisions for the interview of witnesses and may require the provision of police reports to the department for use in evaluation. If an examination provided in section 552.020 was made and the report of such examination included an opinion as to whether, at the time of the alleged criminal conduct, the accused, as a result of mental disease or defect, did not know or appreciate the nature, quality or wrongfulness of such accused's conduct or as a result of mental disease or defect was incapable of conforming such accused's conduct to the requirements of law, such report may be received in evidence, and no new examination shall be required by the court unless, in the discretion of the court, another examination is necessary. If an examination is ordered pursuant to this section, the report shall contain the information required in subsections 3 and 4 of section 552.020. Within ten days after receiving a copy of such report, both the accused and the state shall, upon written request, be entitled to an order granting them an examination of the accused by an examiner of such accused's or its own choosing and at such accused's or its expense. The clerk of the court shall deliver copies of the report or reports to the prosecuting or circuit attorney and to the accused or his counsel. No reports required by this subsection shall be public records or be open to the public. Any examination performed pursuant to this subsection shall be completed and the results shall be filed with the court within sixty days of the date it is received by the department or private psychiatrist, psychologist or physician unless the court, for good cause, orders otherwise.

4. If the report contains the recommendation that the accused should be held in custody in a suitable hospital facility pending trial, and if the accused is not admitted to bail, or released on other conditions, the court may order that the accused be committed to or held in a suitable hospital facility pending trial.

5. No statement made by the accused in the course of any such examination and no information received by any physician or other person in the course thereof, whether such examination was made with or without the consent of the accused or upon the accused's motion or upon that of others, shall be admitted in evidence against the accused on the issue of whether the accused committed the act charged against the accused in any criminal proceeding then or thereafter pending in any court, state or federal. The statement or information shall be admissible in evidence for or against the accused only on the issue of the accused's mental condition, whether or not it would otherwise be deemed to be a privileged communication. If the statement or information is admitted for or against the accused on the issue of the accused's mental condition, the court shall, both orally at the time of its admission and later by instruction, inform the jury that it must not consider such statement or information as any evidence of whether the accused committed the act charged against the accused.

6. All persons are presumed to be free of mental disease or defect excluding responsibility for their conduct, whether or not previously adjudicated in this or any other state to be or to have been sexual or social psychopaths, or incompetent; provided, however, the court may admit evidence presented at such adjudication based on its probative value. The issue of whether any person had a mental disease or defect excluding responsibility for such person's conduct is one for the trier of fact to decide upon the introduction of substantial evidence of lack of such responsibility. But, in the absence of such evidence, the presumption shall be conclusive. Upon the introduction of substantial evidence of lack of such responsibility, the presumption shall not disappear and shall alone be sufficient to take that issue to the trier of fact. The jury shall be instructed as to the existence and nature of such presumption when requested by the state and, where the issue of such responsibility is one for the jury to decide, the jury shall be told that the burden rests upon the accused to show by a preponderance or greater weight of the credible evidence that the defendant

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was suffering from a mental disease or defect excluding responsibility at the time of the conduct charged against the defendant. At the request of the defense the jury shall be instructed by the court as to the contents of subsection 2 of section 552.040.

7. When the accused is acquitted on the ground of mental disease or defect excluding responsibility, the verdict and the judgment shall so state as well as state the offense for which the accused was acquitted. The clerk of the court shall furnish a copy of any judgment or order of commitment to the department of mental health pursuant to this section to the criminal records central repository pursuant to section 43.503.

**552.040. DEFINITIONS — ACQUITTAL BASED ON MENTAL DISEASE OR DEFECT, COMMITMENT TO STATE HOSPITAL REQUIRED — IMMEDIATE CONDITIONAL RELEASE — CONDITIONAL OR UNCONDITIONAL RELEASE, WHEN — PRIOR COMMITMENT, AUTHORITY TO REVOKE — APPLICATIONS FOR RELEASE, NOTICE, BURDEN OF PERSUASION, CRITERIA — HEARINGS REQUIRED, WHEN — DENIAL, REAPPLICATION — ESCAPE, NOTICE — ADDITIONAL CRITERIA FOR RELEASE.** — 1. For the purposes of this section, the following words mean:

(1) "Prosecutor of the jurisdiction", the prosecuting attorney in a county or the circuit attorney of a city not within a county;

(2) "Secure facility", a state mental health facility, state [mental retardation] **developmental disability** facility, private facility under contract with the department of mental health, or a section within any of these facilities, in which persons committed to the department of mental health pursuant to this chapter, shall not be permitted to move about the facility or section of the facility, nor to leave the facility or section of the facility, without approval by the head of the facility or such head's designee and adequate supervision consistent with the safety of the public and the person's treatment, habilitation or rehabilitation plan;

(3) "Tried and acquitted" includes both pleas of mental disease or defect excluding responsibility that are accepted by the court and acquittals on the ground of mental disease or defect excluding responsibility following the proceedings set forth in section 552.030.

2. When an accused is tried and acquitted on the ground of mental disease or defect excluding responsibility, the court shall order such person committed to the director of the department of mental health for custody. The court shall also order custody and care in a state mental health or retardation facility unless an immediate conditional release is granted pursuant to this section. If the accused has not been charged with a dangerous felony as defined in section 556.061, or with murder in the first degree pursuant to section 565.020, or sexual assault pursuant to section 566.040, or the attempts thereof, and the examination contains an opinion that the accused should be immediately conditionally released to the community by the court, the court shall hold a hearing to determine if an immediate conditional release is appropriate pursuant to the procedures for conditional release set out in subsections 10 to 14 of this section. Prior to the hearing, the court shall direct the director of the department of mental health, or the director's designee, to have the accused examined to determine conditions of confinement in accordance with subsection 4 of section 552.020. The provisions of subsection 16 of this section shall be applicable to defendants granted an immediate conditional release and the director shall honor the immediate conditional release as granted by the court. If the court determines that an immediate conditional release is warranted, the court shall order the person committed to the director of the department of mental health before ordering such a release. The court granting the immediate conditional release shall retain jurisdiction over the case for the duration of the conditional release. This shall not limit the authority of the director of the department of mental health or the director's designee to revoke the conditional release or the trial release of any committed person pursuant to subsection 17 of this section. If the accused is committed to a mental health or [mental retardation] **developmental disability** facility, the director of the department of mental health, or the director's designee, shall determine the time, place and conditions of confinement.

3. The provisions of sections 630.110, 630.115, 630.130, 630.133, 630.135, 630.140, 630.145, 630.150, 630.180, 630.183, 630.192, 630.194, 630.196, 630.198, 630.805, 632.370, 632.395, and 632.435 shall apply to persons committed pursuant to subsection 2 of this section. If the department does not have a treatment or rehabilitation program for a mental disease or defect of an individual, that fact may not be the basis for a release from commitment. Notwithstanding any other provision of law to the contrary, no person committed to the department of mental health who has been tried and acquitted by reason of mental disease or defect as provided in section 552.030 shall be conditionally or unconditionally released unless the procedures set out in this section are followed. Upon request by an indigent committed person, the appropriate court may appoint the office of the public defender to represent such person in any conditional or unconditional release proceeding under this section.

4. Notwithstanding section 630.115, any person committed pursuant to subsection 2 of this section shall be kept in a secure facility until such time as a court of competent jurisdiction enters an order granting a conditional or unconditional release to a nonsecure facility.

5. The committed person or the head of the facility where the person is committed may file an application in the court that committed the person seeking an order releasing the committed person unconditionally; except that any person who has been denied an application for a conditional release pursuant to subsection 13 of this section shall not be eligible to file for an unconditional release until the expiration of one year from such denial. In the case of a person who was immediately conditionally released after being committed to the department of mental health, the released person or the director of the department of mental health, or the director's designee, may file an application in the same court that released the committed person seeking an order releasing the committed person unconditionally. Copies of the application shall be served personally or by certified mail upon the head of the facility unless the head of the facility files the application, the committed person unless the committed person files the application, or unless the committed person was immediately conditionally released, the director of the department of mental health, and the prosecutor of the jurisdiction where the committed person was tried and acquitted. Any party objecting to the proposed release must do so in writing within thirty days after service. Within a reasonable period of time after any written objection is filed, which period shall not exceed sixty days unless otherwise agreed upon by the parties, the court shall hold a hearing upon notice to the committed person, the head of the facility, if necessary, the director of the department of mental health, and the prosecutor of the jurisdiction where the person was tried. Prior to the hearing any of the parties, upon written application, shall be entitled to an examination of the committed person, by a psychiatrist or psychologist, as defined in section 632.005, or a physician with a minimum of one year training or experience in providing treatment or services to mentally retarded or mentally ill individuals of its own choosing and at its expense. The report of the mental condition of the committed person shall accompany the application. By agreement of all parties to the proceeding any report of the mental condition of the committed person which may accompany the application for release or which is filed in objection thereto may be received by evidence, but the party contesting any opinion therein shall have the right to summon and to cross-examine the examiner who rendered such opinion and to offer evidence upon the issue.

6. By agreement of all the parties and leave of court, the hearing may be waived, in which case an order granting an unconditional release shall be entered in accordance with subsection 8 of this section.

7. At a hearing to determine if the committed person should be unconditionally released, the court shall consider the following factors in addition to any other relevant evidence:

- (1) Whether or not the committed person presently has a mental disease or defect;
  - (2) The nature of the offense for which the committed person was committed;
  - (3) The committed person's behavior while confined in a mental health facility;
  - (4) The elapsed time between the hearing and the last reported unlawful or dangerous act;
  - (5) Whether the person has had conditional releases without incident; and
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(6) Whether the determination that the committed person is not dangerous to himself or others is dependent on the person's taking drugs, medicine or narcotics. The burden of persuasion for any person committed to a mental health facility under the provisions of this section upon acquittal on the grounds of mental disease or defect excluding responsibility shall be on the party seeking unconditional release to prove by clear and convincing evidence that the person for whom unconditional release is sought does not have, and in the reasonable future is not likely to have, a mental disease or defect rendering the person dangerous to the safety of himself or others.

8. The court shall enter an order either denying the application for unconditional release or granting an unconditional release. An order denying the application shall be without prejudice to the filing of another application after the expiration of one year from the denial of the last application.

9. No committed person shall be unconditionally released unless it is determined through the procedures in this section that the person does not have, and in the reasonable future is not likely to have, a mental disease or defect rendering the person dangerous to the safety of himself or others.

10. The committed person or the head of the facility where the person is committed may file an application in the court having probate jurisdiction over the facility where the person is detained for a hearing to determine whether the committed person shall be released conditionally. In the case of a person committed to a mental health facility upon acquittal on the grounds of mental disease or defect excluding responsibility for a dangerous felony as defined in section 556.061, murder in the first degree pursuant to section 565.020, or sexual assault pursuant to section 566.040, any such application shall be filed in the court that committed the person. In such cases, jurisdiction over the application for conditional release shall be in the committing court. In the case of a person who was immediately conditionally released after being committed to the department of mental health, the released person or the director of the department of mental health, or the director's designee, may file an application in the same court that released the person seeking to amend or modify the existing release. The procedures for application for unconditional releases set out in subsection 5 of this section shall apply, with the following additional requirements:

(1) A copy of the application shall also be served upon the prosecutor of the jurisdiction where the person is being detained, unless the released person was immediately conditionally released after being committed to the department of mental health, or unless the application was required to be filed in the court that committed the person in which case a copy of the application shall be served upon the prosecutor of the jurisdiction where the person was tried and acquitted and the prosecutor of the jurisdiction into which the committed person is to be released;

(2) The prosecutor of the jurisdiction where the person was tried and acquitted shall use their best efforts to notify the victims of dangerous felonies. Notification by the appropriate person or agency by certified mail to the most current address provided by the victim shall constitute compliance with the victim notification requirement of this section;

(3) The application shall specify the conditions and duration of the proposed release;

(4) The prosecutor of the jurisdiction where the person is being detained shall represent the public safety interest at the hearing unless the prosecutor of the jurisdiction where the person was tried and acquitted decides to appear to represent the public safety interest. If the application for release was required to be filed in the committing court, the prosecutor of the jurisdiction where the person was tried and acquitted shall represent the public safety interest. In the case of a person who was immediately conditionally released after being committed to the department of mental health, the prosecutor of the jurisdiction where the person was tried and acquitted shall appear and represent the public safety interest.

11. By agreement of all the parties, the hearing may be waived, in which case an order granting a conditional release, stating the conditions and duration agreed upon by all the parties and the court, shall be entered in accordance with subsection 13 of this section.

12. At a hearing to determine if the committed person should be conditionally released, the court shall consider the following factors in addition to any other relevant evidence:

- (1) The nature of the offense for which the committed person was committed;
- (2) The person's behavior while confined in a mental health facility;
- (3) The elapsed time between the hearing and the last reported unlawful or dangerous act;
- (4) The nature of the person's proposed release plan;
- (5) The presence or absence in the community of family or others willing to take responsibility to help the defendant adhere to the conditions of the release; and

(6) Whether the person has had previous conditional releases without incident. The burden of persuasion for any person committed to a mental health facility under the provisions of this section upon acquittal on the grounds of mental disease or defect excluding responsibility shall be on the party seeking release to prove by clear and convincing evidence that the person for whom release is sought is not likely to be dangerous to others while on conditional release.

13. The court shall enter an order either denying the application for a conditional release or granting conditional release. An order denying the application shall be without prejudice to the filing of another application after the expiration of one year from the denial of the last application.

14. No committed person shall be conditionally released until it is determined that the committed person is not likely to be dangerous to others while on conditional release.

15. If, in the opinion of the head of a facility where a committed person is being detained, that person can be released without danger to others, that person may be released from the facility for a trial release of up to ninety-six hours under the following procedure:

(1) The head of the facility where the person is committed shall notify the prosecutor of the jurisdiction where the committed person was tried and acquitted and the prosecutor of the jurisdiction into which the committed person is to be released at least thirty days before the date of the proposed trial release;

(2) The notice shall specify the conditions and duration of the release;

(3) If no prosecutor to whom notice is required objects to the trial release, the committed person shall be released according to conditions and duration specified in the notice;

(4) If any prosecutor objects to the trial release, the head of the facility may file an application with the court having probate jurisdiction over the facility where the person is detained for a hearing under the procedures set out in subsections 5 and 10 of this section with the following additional requirements:

(a) A copy of the application shall also be served upon the prosecutor of the jurisdiction into which the committed person is to be released; and

(b) The prosecutor or prosecutors who objected to the trial release shall represent the public safety interest at the hearing; and

(5) The release criteria of subsections 12 to 14 of this section shall apply at such a hearing.

16. The department shall provide or shall arrange for follow-up care and monitoring for all persons conditionally released under this section and shall make or arrange for reviews and visits with the client at least monthly, or more frequently as set out in the release plan, and whether the client is receiving care, treatment, habilitation or rehabilitation consistent with his needs, condition and public safety. The department shall identify the facilities, programs or specialized services operated or funded by the department which shall provide necessary levels of follow-up care, aftercare, rehabilitation or treatment to the persons in geographical areas where they are released.

17. The director of the department of mental health, or the director's designee, may revoke the conditional release or the trial release and request the return of the committed person if such director or coordinator has reasonable cause to believe that the person has violated the conditions of such release. If requested to do so by the director or coordinator, a peace officer of a jurisdiction in which a patient on conditional release is found shall apprehend and return such patient to the facility. No peace officer responsible for apprehending and returning the committed person to the facility upon the request of the director or coordinator shall be civilly liable for apprehending or transporting such patient to the facility so long as such duties were performed in good faith and without negligence. If a person on conditional release is returned to a facility under

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the provisions of this subsection, a hearing shall be held within ninety-six hours, excluding Saturdays, Sundays and state holidays, to determine whether the person violated the conditions of the release or whether resumption of full-time hospitalization is the least restrictive alternative consistent with the person's needs and public safety. The director of the department of mental health, or the director's designee, shall conduct the hearing. The person shall be given notice at least twenty-four hours in advance of the hearing and shall have the right to have an advocate present.

18. At any time during the period of a conditional release or trial release, the court which ordered the release may issue a notice to the released person to appear to answer a charge of a violation of the terms of the release and the court may issue a warrant of arrest for the violation. Such notice shall be personally served upon the released person. The warrant shall authorize the return of the released person to the custody of the court or to the custody of the director of mental health or the director's designee.

19. The head of a mental health facility, upon any notice that a committed person has escaped confinement, or left the facility or its grounds without authorization, shall immediately notify the prosecutor and sheriff of the county wherein the committed person is detained of the escape or unauthorized leaving of grounds and the prosecutor and sheriff of the county where the person was tried and acquitted.

20. Any person committed to a mental health facility under the provisions of this section upon acquittal on the grounds of mental disease or defect excluding responsibility for a dangerous felony as defined in section 556.061, murder in the first degree pursuant to section 565.020, or sexual assault pursuant to section 566.040 shall not be eligible for conditional or unconditional release under the provisions of this section unless, in addition to the requirements of this section, the court finds that the following criteria are met:

(1) Such person is not now and is not likely in the reasonable future to commit another violent crime against another person because of such person's mental illness; and

(2) Such person is aware of the nature of the violent crime committed against another person and presently possesses the capacity to appreciate the criminality of the violent crime against another person and the capacity to conform such person's conduct to the requirements of law in the future.

**630.003. DEPARTMENT CREATED — STATE MENTAL HEALTH COMMISSION — MISSOURI INSTITUTE OF MENTAL HEALTH — TRANSFERS OF POWERS AND AGENCIES. — 1.** There is hereby created a department of mental health to be headed by a mental health commission who shall appoint a director, by and with the advice and consent of the senate. The director shall be the administrative head of the department and shall serve at the pleasure of the commission and be compensated as provided by law for the director, division of mental health. All employees of the department shall be selected in accordance with chapter 36.

2. (1) The "State Mental Health Commission", composed of seven members, is the successor to the former state mental health commission and it has all the powers, duties and responsibilities of the former commission. All members of the commission shall be appointed by the governor, by and with the advice and consent of the senate. None of the members shall otherwise be employed by the state of Missouri.

(2) Three of the commission members first appointed shall be appointed for terms of four years, and two shall be appointed for terms of three years, and two shall be appointed for a term of two years. The governor shall designate, at the time the appointments are made, the length of the term of each member so appointed. Thereafter all terms shall be for four years.

(3) At least two of the members of the commission shall be physicians, one of whom shall be recognized as an expert in the field of the treatment of nervous and mental diseases, and one of whom shall be recognized as an expert in the field of [mental retardation or of other] **intellectual or** developmental disabilities. At least two of the members of the commission shall be

representative of persons or groups who are consumers having substantial interest in the services provided by the division, one of whom shall represent [the mentally retarded or developmentally disabled] **persons with an intellectual disability or developmental disability** and one of whom shall represent those persons being treated for nervous and mental diseases. Of the other three members at least one must be recognized for his expertise in general business management procedures, and two shall be recognized for their interest and expertise in dealing with alcohol/drug abuse problems, or community mental health services.

3. The provisions of sections 191.120, 191.125, 191.130, 191.140, 191.150, 191.160, 191.170, 191.180, 191.190, 191.200, 191.210 and others as they relate to the division of mental health not previously reassigned by executive reorganization plan number 2 of 1973 as submitted by the governor under chapter 26 are transferred by specific type transfer from the department of public health and welfare to the department of mental health. The division of mental health, department of health and welfare, chapter 202 and others are abolished and all powers, duties and functions now assigned by law to the division, the director of the divisions of mental health or any of the institutions or officials of the division are transferred by type I transfer to the department of mental health.

4. The Missouri institute of psychiatry, which is under the board of curators of the University of Missouri is hereafter to be known as the "Missouri Institute of Mental Health". The purpose of the institute will be that of conducting research into improving services for persons served by the department of mental health for fostering the training of psychiatric residents in public psychiatry and for fostering excellence in mental health services through employee training and the study of mental health policy and ethics. To assist in this training, hospitals operated by and providers contracting with the department of mental health may be used for the same purposes and under the same arrangements as the board of curators of the University of Missouri utilizes with other hospitals in the state in supervising residency training for medical doctors. Appropriations requests for the Missouri institute of mental health shall be jointly developed by the University of Missouri and the department of mental health. All appropriations for the Missouri institute of mental health shall be made to the curators of the University of Missouri but shall be submitted separately from the appropriations of the curators of the University of Missouri.

5. There is hereby established within the department of mental health a division of [mental retardation and] developmental disabilities. The director of the division shall be appointed by the director of the department. The division shall administer all state facilities under the direction and authority of the department director. The Marshall Habilitation Center, the Higginsville Habilitation Center, the Bellefontaine Habilitation Center, the Nevada Habilitation Center, the St. Louis Developmental Disabilities Treatment Centers, and the regional centers located at Albany, Columbia, Hannibal, Joplin, Kansas City, Kirksville, Poplar Bluff, Rolla, St. Louis, Sikeston and Springfield and other similar facilities as may be established, are transferred by type I transfer to the division of [mental retardation and] developmental disabilities.

6. All the duties, powers and functions of the advisory council on mental retardation and community health centers, sections 202.664 to 202.666, are hereby transferred by type I transfer to the division of mental retardation and developmental disabilities of the department of mental health. The advisory council on mental retardation and community health centers shall be appointed by the division director.

7. The advisory council on mental retardation and developmental disabilities heretofore established by executive order and all of the duties, powers and functions of the advisory council including the responsibilities of the provision of the council in regard to the Federal Development Disabilities Law (P.L. 91-517) and all amendments thereto are transferred by type I transfer to the division of mental retardation and developmental disabilities. The advisory council on mental retardation and developmental disabilities shall be appointed by the director of the division of mental retardation and developmental disabilities.

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8. The advisory council on alcoholism and drug abuse, chapter 202, is transferred by type II transfer to the department of mental health and the members of the advisory council shall be appointed by the mental health director.

**630.005. DEFINITIONS.** — As used in this chapter and chapters 631, 632, and 633, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Administrative entity", a provider of specialized services other than transportation to clients of the department on behalf of a division of the department;

(2) "Alcohol abuse", the use of any alcoholic beverage, which use results in intoxication or in a psychological or physiological dependency from continued use, which dependency induces a mental, emotional or physical impairment and which causes socially dysfunctional behavior;

(3) "Chemical restraint", medication administered with the primary intent of restraining a patient who presents a likelihood of serious physical injury to himself or others, and not prescribed to treat a person's medical condition;

(4) "Client", any person who is placed by the department in a facility or program licensed and funded by the department or who is a recipient of services from a regional center, as defined in section 633.005;

(5) "Commission", the state mental health commission;

(6) "Consumer", a person:

(a) Who qualifies to receive department services; or

(b) Who is a parent, child or sibling of a person who receives department services; or

(c) Who has a personal interest in services provided by the department. A person who provides services to persons affected by [mental retardation,] **intellectual disabilities**, developmental disabilities, mental disorders, mental illness, or alcohol or drug abuse shall not be considered a consumer;

(7) "Day program", a place conducted or maintained by any person who advertises or holds himself out as providing prevention, evaluation, treatment, habilitation or rehabilitation for persons affected by mental disorders, mental illness, [mental retardation,] **intellectual disabilities**, developmental disabilities or alcohol or drug abuse for less than the full twenty-four hours comprising each daily period;

(8) "Department", the department of mental health of the state of Missouri;

(9) "Developmental disability", a disability:

(a) Which is attributable to:

a. Mental retardation, cerebral palsy, epilepsy, head injury or autism, or a learning disability related to a brain dysfunction; or

b. Any other mental or physical impairment or combination of mental or physical impairments; and

(b) Is manifested before the person attains age twenty-two; and

(c) Is likely to continue indefinitely; and

(d) Results in substantial functional limitations in two or more of the following areas of major life activities:

a. Self-care;

b. Receptive and expressive language development and use;

c. Learning;

d. Self-direction;

e. Capacity for independent living or economic self-sufficiency;

f. Mobility; and

(e) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, habilitation or other services which may be of lifelong or extended duration and are individually planned and coordinated;

(10) "Director", the director of the department of mental health, or his designee;

(11) "Domiciled in Missouri", a permanent connection between an individual and the state of Missouri, which is more than mere residence in the state; it may be established by the individual being physically present in Missouri with the intention to abandon his previous domicile and to remain in Missouri permanently or indefinitely;

(12) "Drug abuse", the use of any drug without compelling medical reason, which use results in a temporary mental, emotional or physical impairment and causes socially dysfunctional behavior, or in psychological or physiological dependency resulting from continued use, which dependency induces a mental, emotional or physical impairment and causes socially dysfunctional behavior;

(13) "Habilitation", a process of treatment, training, care or specialized attention which seeks to enhance and maximize [the mentally retarded or developmentally disabled person's abilities ] **a person with an intellectual disability or an developmental disability ability** to cope with the environment and to live as normally as possible;

(14) "Habilitation center", a residential facility operated by the department and serving only persons who are [mentally retarded, including] developmentally disabled;

(15) "Head of the facility", the chief administrative officer, or his designee, of any residential facility;

(16) "Head of the program", the chief administrative officer, or his designee, of any day program;

(17) "Individualized habilitation plan", a document which sets forth habilitation goals and objectives for [mentally retarded or developmentally disabled] residents and clients **with an intellectual disability or a developmental disability**, and which details the habilitation program as required by law, rules and funding sources;

(18) "Individualized rehabilitation plan", a document which sets forth the care, treatment and rehabilitation goals and objectives for patients and clients affected by alcohol or drug abuse, and which details the rehabilitation program as required by law, rules and funding sources;

(19) "Individualized treatment plan", a document which sets forth the care, treatment and rehabilitation goals and objectives for [mentally disordered or mentally ill] patients and clients **with mental disorders or mental illness**, and which details the treatment program as required by law, rules and funding sources;

(20) "Investigator", an employee or contract agent of the department of mental health who is performing an investigation regarding an allegation of abuse or neglect or an investigation at the request of the director of the department of mental health or his designee;

(21) "Least restrictive environment", a reasonably available setting or mental health program where care, treatment, habilitation or rehabilitation is particularly suited to the level and quality of services necessary to implement a person's individualized treatment, habilitation or rehabilitation plan and to enable the person to maximize his **or her** functioning potential to participate as freely as feasible in normal living activities, giving due consideration to potentially harmful effects on the person and the safety of other facility or program clients and public safety. For some [mentally disordered or mentally retarded] persons **with mental disorders, intellectual disabilities, or developmental disabilities**, the least restrictive environment may be a facility operated by the department, a private facility, a supported community living situation, or an alternative community program designed for persons who are civilly detained for outpatient treatment or who are conditionally released pursuant to chapter 632;

(22) "Mental disorder", any organic, mental or emotional impairment which has substantial adverse effects on a person's cognitive, volitional or emotional function and which constitutes a substantial impairment in a person's ability to participate in activities of normal living;

(23) "Mental illness", a state of impaired mental processes, which impairment results in a distortion of a person's capacity to recognize reality due to hallucinations, delusions, faulty perceptions or alterations of mood, and interferes with an individual's ability to reason, understand

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or exercise conscious control over his actions. The term "mental illness" does not include the following conditions unless they are accompanied by a mental illness as otherwise defined in this subdivision:

- (a) Mental retardation, developmental disability or narcolepsy;
- (b) Simple intoxication caused by substances such as alcohol or drugs;
- (c) Dependence upon or addiction to any substances such as alcohol or drugs;
- (d) Any other disorders such as senility, which are not of an actively psychotic nature;
- (24) "Mental retardation", significantly subaverage general intellectual functioning which:
  - (a) Originates before age eighteen; and
  - (b) Is associated with a significant impairment in adaptive behavior;
- (25) "Minor", any person under the age of eighteen years;
- (26) "Patient", an individual under observation, care, treatment or rehabilitation by any hospital or other mental health facility or mental health program pursuant to the provisions of chapter 632;
- (27) "Psychosurgery",
  - (a) Surgery on the normal brain tissue of an individual not suffering from physical disease for the purpose of changing or controlling behavior; or
  - (b) Surgery on diseased brain tissue of an individual if the sole object of the surgery is to control, change or affect behavioral disturbances, except seizure disorders;
- (28) "Rehabilitation", a process of restoration of a person's ability to attain or maintain normal or optimum health or constructive activity through care, treatment, training, counseling or specialized attention;
- (29) "Residence", the place where the patient has last generally lodged prior to admission or, in case of a minor, where his family has so lodged; except, that admission or detention in any facility of the department shall not be deemed an absence from the place of residence and shall not constitute a change in residence;
- (30) "Resident", a person receiving residential services from a facility, other than mental health facility, operated, funded or licensed by the department;
- (31) "Residential facility", any premises where residential prevention, evaluation, care, treatment, habilitation or rehabilitation is provided for persons affected by mental disorders, mental illness, [mental retardation] **intellectual disability**, developmental disabilities or alcohol or drug abuse; except the person's dwelling;
- (32) "Specialized service", an entity which provides prevention, evaluation, transportation, care, treatment, habilitation or rehabilitation services to persons affected by mental disorders, mental illness, [mental retardation,] **intellectual disabilities**, developmental disabilities or alcohol or drug abuse;
- (33) "Vendor", a person or entity under contract with the department, other than as a department employee, who provides services to patients, residents or clients;
- (34) "Vulnerable person", any person in the custody, care, or control of the department that is receiving services from an operated, funded, licensed, or certified program.

**630.010. MENTAL HEALTH COMMISSION — MEMBERS, TERMS, QUALIFICATIONS, APPOINTMENT, VACANCIES, COMPENSATION — ORGANIZATION, MEETINGS.** — 1. The state mental health commission, established by the omnibus reorganization act of 1974, section 9, appendix B, RSMo, shall be composed of seven members appointed by the governor, by and with the advice and consent of the senate. The terms of members appointed under the reorganization act before August 13, 1980, shall continue until the terms under which the members were regularly appointed expire. The terms shall be for four years. Each commissioner shall hold office until his successor has been appointed and qualified.

2. The commission shall be comprised of members who are not prohibited from serving by sections 105.450 to 105.482, as amended, and who are not otherwise employed by the state. The commission shall be composed of the following:

- (1) A physician recognized as an expert in the treatment of mental illness;
  - (2) A physician recognized as an expert in the evaluation or habilitation of [the mentally retarded and developmentally disabled] **persons with an intellectual disability or developmental disability**;
  - (3) A representative of groups who are consumers or families of consumers interested in the services provided by the department in the treatment of mental illness;
  - (4) A representative of groups who are consumers or families of consumers interested in the services provided by the department in the habilitation of [the mentally retarded] **persons with an intellectual disability or developmental disability**;
  - (5) A person recognized for his expertise in general business matters and procedures;
  - (6) A person recognized for his interest and expertise in dealing with alcohol or drug abuse;
- and
- (7) A person recognized for his interest or expertise in community mental health services.

3. Vacancies occurring on the commission shall be filled by appointment by the governor, by and with the advice and consent of the senate, for the unexpired terms. In case of a vacancy when the senate is not in session, the governor shall make a temporary appointment until the next session of the general assembly, when he shall nominate someone to fill the office.

4. The commission shall elect from its members a chairman and a secretary. Meetings shall be held at least once a month, and special meetings may be held at the call of the chairman.

5. The department shall pay the commission members one hundred dollars per day for each day, or portion thereof, they actually spend in transacting the business of the commission and shall reimburse the commission members for necessary expenses actually incurred in the performance of their official duties.

**630.053. MENTAL HEALTH EARNINGS FUND — USES — RULES AND REGULATIONS, PROCEDURE.** — 1. There is hereby created in the state treasury a fund to be known as the "Mental Health Earnings Fund". The state treasurer shall credit to the fund any interest earned from investing the moneys in the fund. Notwithstanding the provisions of section 33.080, money in the mental health earnings fund shall not be transferred and placed to the credit of general revenue at the end of the biennium.

2. Fees received pursuant to the substance abuse traffic offenders program shall be deposited in the mental health earnings fund. Such fees shall not be used for personal services, expenses and equipment or for any demonstration or other program. No other federal or state funds shall be deposited in the fund, except for the purposes provided in subsections 3 [and 4] **to 5** of this section. The moneys received from such fees shall be appropriated solely for assistance in securing alcohol and drug rehabilitation services for persons who are unable to pay for the services they receive.

3. The mental health earnings fund may be used for the deposit of revenue received for the provision of services under a managed care agreement entered into by the department of mental health. Subject to the approval through the appropriation process, such revenues may be expended for the purposes of providing such services pursuant to the managed care agreement and for no other purpose and shall be accounted for separately from all other revenues deposited in the fund.

4. The mental health earnings fund may, if approved through the appropriation process, be used for the deposit of revenue received pursuant to an agreement entered into by the department of mental health and an alcohol and drug abuse counselor certification board for the purpose of providing oversight of counselor certification. Such revenue shall be accounted for separately from all other revenues deposited in the fund.

5. The mental health earnings fund may be used for the deposit of revenue received from proceeds of any sales and services from Mental Health First Aid USA. Subject to the approval through the appropriation process, such proceeds shall be used for the purpose of funding Mental Health First Aid USA activities and shall be accounted for separately from all other revenues deposited in the fund.

6. The department of mental health shall promulgate rules and regulations to implement and administer the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

**630.095. COPYRIGHTS AND TRADEMARKS BY DEPARTMENT.** — The department may copyright or obtain a trademark for any instructional, training and informational audio-visual materials, manuals and documents which are prepared by department personnel or by persons who receive department funding to prepare such material. If the material is sold directly or for distribution, the department shall pay the proceeds of the sales to the director of revenue for deposit to the general revenue fund, **except for proceeds received under subsection 5 of section 630.053.**

**630.097. COMPREHENSIVE CHILDREN'S MENTAL HEALTH SERVICE SYSTEM TO BE DEVELOPED — TEAM ESTABLISHED, MEMBERS, DUTIES — PLAN TO BE DEVELOPED, CONTENT — EVALUATIONS TO BE CONDUCTED, WHEN.** — 1. The department of mental health shall develop, in partnership with all departments represented on the children's services commission, a unified accountable comprehensive children's mental health service system. The department of mental health shall establish a state interagency comprehensive children's mental health service system team comprised of representation from:

- (1) Family-run organizations and family members;
- (2) Child advocate organizations;
- (3) The department of health and senior services;
- (4) The department of social services' children's division, division of youth services, and the division of medical services;
- (5) The department of elementary and secondary education;
- (6) The department of mental health's division of alcohol and drug abuse, division of [mental retardation and] developmental disabilities, and the division of comprehensive psychiatric services;
- (7) The department of public safety;
- (8) The office of state courts administrator;
- (9) The juvenile justice system; and
- (10) Local representatives of the member organizations of the state team to serve children with emotional and behavioral disturbance problems, developmental disabilities, and substance abuse problems. The team shall be called "The Comprehensive System Management Team". There shall be a stakeholder advisory committee to provide input to the comprehensive system management team to assist the departments in developing strategies and to ensure positive outcomes for children are being achieved. The department of mental health shall obtain input from appropriate consumer and family advocates when selecting family members for the comprehensive system management team, in consultation with the departments that serve on the children's services commission. The implementation of a comprehensive system shall include all state agencies and system partner organizations involved in the lives of the children served. These system partners may include private and not-for-profit organizations and representatives from local system of care teams and these partners may serve on the stakeholder advisory committee. The department of mental health shall promulgate rules for the implementation of this section in consultation with all of the departments represented on the children's services commission.

2. The department of mental health shall, in partnership with the departments serving on the children's services commission and the stakeholder advisory committee, develop a state comprehensive children's mental health service system plan. This plan shall be developed and submitted to the governor, the general assembly, and children's services commission by December, 2004. There shall be subsequent annual reports that include progress toward outcomes, monitoring, changes in populations and services, and emerging issues. The plan shall:

- (1) Describe the mental health service and support needs of Missouri's children and their families, including the specialized needs of specific segments of the population;
- (2) Define the comprehensive array of services including services such as intensive home-based services, early intervention services, family support services, respite services, and behavioral assistance services;
- (3) Establish short- and long-term goals, objectives, and outcomes;
- (4) Describe and define the parameters for local implementation of comprehensive children's mental health system teams;
- (5) Describe and emphasize the importance of family involvement in all levels of the system;
- (6) Describe the mechanisms for financing, and the cost of implementing the comprehensive array of services;
- (7) Describe the coordination of services across child-serving agencies and at critical transition points, with emphasis on the involvement of local schools;
- (8) Describe methods for service, program, and system evaluation;
- (9) Describe the need for, and approaches to, training and technical assistance; and
- (10) Describe the roles and responsibilities of the state and local child-serving agencies in implementing the comprehensive children's mental health care system.

3. The comprehensive system management team shall collaborate to develop uniform language to be used in intake and throughout the provision of services.

4. The comprehensive children's mental health services system shall:

- (1) Be child centered, family focused, strength based, and family driven, with the needs of the child and family dictating the types and mix of services provided, and shall include the families as full participants in all aspects of the planning and delivery of services;
  - (2) Provide community-based mental health services to children and their families in the context in which the children live and attend school;
  - (3) Respond in a culturally competent and responsive manner;
  - (4) Emphasize prevention, early identification, and intervention;
  - (5) Assure access to a continuum of services that:
    - (a) Educate the community about the mental health needs of children;
    - (b) Address the unique physical, behavioral, emotional, social, developmental, and educational needs of children;
    - (c) Are coordinated with the range of social and human services provided to children and their families by local school districts, **the departments of** social services, health and senior services, **and** public safety, juvenile offices, and the juvenile and family courts;
    - (d) Provide a comprehensive array of services through an integrated service plan;
    - (e) Provide services in the least restrictive most appropriate environment that meets the needs of the child; and
    - (f) Are appropriate to the developmental needs of children;
  - (6) Include early screening and prompt intervention to:
    - (a) Identify and treat the mental health needs of children in the least restrictive environment appropriate to their needs; and
    - (b) Prevent further deterioration;
  - (7) Address the unique problems of paying for mental health services for children, including:
    - (a) Access to private insurance coverage;
    - (b) Public funding, including:
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- a. Assuring that funding follows children across departments; and
- b. Maximizing federal financial participation;
- (c) Private funding and services;
- (8) Assure a smooth transition from child to adult mental health services when needed;
- (9) Coordinate a service delivery system inclusive of services, providers, and schools that serve children and youth with emotional and behavioral disturbance problems, and their families through state agencies that serve on the state comprehensive children's management team; and
- (10) Be outcome based.

5. By August 28, 2007, and periodically thereafter, the children's services commission shall conduct and distribute to the general assembly an evaluation of the implementation and effectiveness of the comprehensive children's mental health care system, including an assessment of family satisfaction and the progress of achieving outcomes.

**630.120. NO PRESUMPTIONS.** — No patient or resident, either voluntary or involuntary, shall be presumed to be incompetent, to forfeit any legal right, responsibility or obligation or to suffer any legal disability as a citizen, unless otherwise prescribed by law, as a consequence of receiving evaluation, care, treatment, habilitation or rehabilitation for a mental disorder, mental illness, [mental retardation] **intellectual disability**, developmental disability, alcohol problem or drug problem.

**630.165. SUSPECTED ABUSE OF PATIENT, REPORT, BY WHOM MADE, CONTENTS — EFFECT OF FAILURE TO REPORT — PENALTY.** — 1. When any physician, physician assistant, dentist, chiropractor, optometrist, podiatrist, intern, resident, nurse, nurse practitioner, medical examiner, social worker, licensed professional counselor, certified substance abuse counselor, psychologist, other health practitioner, minister, Christian Science practitioner, peace officer, pharmacist, physical therapist, facility administrator, nurse's aide, orderly or any other direct-care staff in a residential facility, day program, group home or [mental retardation] **developmental disability** facility as defined in section 633.005, or specialized service operated, licensed, certified, or funded by the department or in a mental health facility or mental health program in which people may be admitted on a voluntary basis or are civilly detained pursuant to chapter 632, or employee of the departments of social services, mental health, or health and senior services; or home health agency or home health agency employee; hospital and clinic personnel engaged in examination, care, or treatment of persons; in-home services owner, provider, operator, or employee; law enforcement officer, long-term care facility administrator or employee; mental health professional, probation or parole officer, or other nonfamilial person with responsibility for the care of a patient, resident, or client of a facility, program, or service has reasonable cause to suspect that a patient, resident or client of a facility, program or service has been subjected to abuse or neglect or observes such person being subjected to conditions or circumstances that would reasonably result in abuse or neglect, he or she shall immediately report or cause a report to be made to the department in accordance with section 630.163.

2. Any person who knowingly fails to make a report as required in subsection 1 of this section is guilty of a class A misdemeanor and shall be subject to a fine up to one thousand dollars. Penalties collected for violations of this section shall be transferred to the state school moneys fund as established in section 166.051 and distributed to the public schools of this state in the manner provided in section 163.031. Such penalties shall not be considered charitable for tax purposes.

3. Every person who has been previously convicted of or pled guilty to failing to make a report as required in subsection 1 of this section and who is subsequently convicted of failing to make a report under subsection 2 of this section is guilty of a class D felony and shall be subject to a fine up to five thousand dollars. Penalties collected for violation of this subsection shall be transferred to the state school moneys fund as established in section 166.051 and distributed to the

public schools of this state in the manner provided in section 163.031. Such penalties shall not be considered charitable for tax purposes.

4. Any person who knowingly files a false report of vulnerable person abuse or neglect is guilty of a class A misdemeanor and shall be subject to a fine up to one thousand dollars. Penalties collected for violations of this subsection shall be transferred to the state school moneys fund as established in section 166.051 and distributed to the public schools of this state in the manner provided in section 163.031. Such penalties shall not be considered charitable for tax purposes.

5. Every person who has been previously convicted of or pled guilty to making a false report to the department and who is subsequently convicted of making a false report under subsection 4 of this section is guilty of a class D felony and shall be subject to a fine up to five thousand dollars. Penalties collected for violations of this subsection shall be transferred to the state school moneys fund as established in section 166.051 and distributed to the public schools of this state in the manner provided in section 163.031. Such penalties shall not be considered charitable for tax purposes.

6. Evidence of prior convictions of false reporting shall be heard by the court, out of the hearing of the jury, prior to the submission of the case to the jury, and the court shall determine the existence of the prior convictions.

7. Any residential facility, day program, or specialized service operated, funded, or licensed by the department that prevents or discourages a patient, resident, [or] client, employee, or other person from reporting that a patient, resident, or client of a facility, program, or service has been abused or neglected shall be subject to loss of their license issued pursuant to sections 630.705 to 630.760 and civil fines of up to five thousand dollars for each attempt to prevent or discourage reporting.

**630.167. INVESTIGATION OF REPORT, WHEN MADE, BY WHOM — ABUSE PREVENTION BY REMOVAL, PROCEDURE — REPORTS CONFIDENTIAL, PRIVILEGED, EXCEPTIONS — IMMUNITY OF REPORTER, NOTIFICATION — RETALIATION PROHIBITED — ADMINISTRATIVE DISCHARGE OF EMPLOYEE, APPEAL PROCEDURE.** — 1. Upon receipt of a report, the department or the department of health and senior services, if such facility or program is licensed pursuant to chapter 197, shall initiate an investigation within twenty-four hours.

2. If the investigation indicates possible abuse or neglect of a patient, resident or client, the investigator shall refer the complaint together with the investigator's report to the department director for appropriate action. If, during the investigation or at its completion, the department has reasonable cause to believe that immediate removal from a facility not operated or funded by the department is necessary to protect the residents from abuse or neglect, the department or the local prosecuting attorney may, or the attorney general upon request of the department shall, file a petition for temporary care and protection of the residents in a circuit court of competent jurisdiction. The circuit court in which the petition is filed shall have equitable jurisdiction to issue an ex parte order granting the department authority for the temporary care and protection of the resident for a period not to exceed thirty days.

3. (1) Except as otherwise provided in this section, reports referred to in section 630.165 and the investigative reports referred to in this section shall be confidential, shall not be deemed a public record, and shall not be subject to the provisions of section 109.180 or chapter 610. Investigative reports pertaining to abuse and neglect shall remain confidential until a final report is complete, subject to the conditions contained in this section. Final reports of substantiated abuse or neglect issued on or after August 28, 2007, are open and shall be available for release in accordance with chapter 610. The names and all other identifying information in such final substantiated reports, including diagnosis and treatment information about the patient, resident, or client who is the subject of such report, shall be confidential and may only be released to the patient, resident, or client who has not been adjudged incapacitated under chapter 475, the custodial parent or guardian

parent, or other guardian of the patient, resident or client. The names and other descriptive information of the complainant, witnesses, or other persons for whom findings are not made against in the final substantiated report shall be confidential and not deemed a public record. Final reports of unsubstantiated allegations of abuse and neglect shall remain closed records and shall only be released to the parents or other guardian of the patient, resident, or client who is the subject of such report, patient, resident, or client and the department vendor, provider, agent, or facility where the patient, resident, or client was receiving department services at the time of the unsubstantiated allegations of abuse and neglect, but the names and any other descriptive information of the complainant or any other person mentioned in the reports shall not be disclosed unless such complainant or person specifically consents to such disclosure. Requests for final reports of substantiated or unsubstantiated abuse or neglect from a patient, resident or client who has not been adjudged incapacitated under chapter 475 may be denied or withheld if the director of the department or his or her designee determines that such release would jeopardize the person's therapeutic care, treatment, habilitation, or rehabilitation, or the safety of others and provided that the reasons for such denial or withholding are submitted in writing to the patient, resident or client who has not been adjudged incapacitated under chapter 475. All reports referred to in this section shall be admissible in any judicial proceedings or hearing in accordance with section [36.390] **621.075** or any administrative hearing before the director of the department of mental health, or the director's designee. All such reports may be disclosed by the department of mental health to law enforcement officers and public health officers, but only to the extent necessary to carry out the responsibilities of their offices, and to the department of social services, and the department of health and senior services, and to boards appointed pursuant to sections 205.968 to 205.990 that are providing services to the patient, resident or client as necessary to report or have investigated abuse, neglect, or rights violations of patients, residents or clients provided that all such law enforcement officers, public health officers, department of social services' officers, department of health and senior services' officers, and boards shall be obligated to keep such information confidential.

(2) Except as otherwise provided in this section, the proceedings, findings, deliberations, reports and minutes of committees of health care professionals as defined in section 537.035 or mental health professionals as defined in section 632.005 who have the responsibility to evaluate, maintain, or monitor the quality and utilization of mental health services are privileged and shall not be subject to the discovery, subpoena or other means of legal compulsion for their release to any person or entity or be admissible into evidence into any judicial or administrative action for failure to provide adequate or appropriate care. Such committees may exist, either within department facilities or its agents, contractors, or vendors, as applicable. Except as otherwise provided in this section, no person who was in attendance at any investigation or committee proceeding shall be permitted or required to disclose any information acquired in connection with or in the course of such proceeding or to disclose any opinion, recommendation or evaluation of the committee or board or any member thereof; provided, however, that information otherwise discoverable or admissible from original sources is not to be construed as immune from discovery or use in any proceeding merely because it was presented during proceedings before any committee or in the course of any investigation, nor is any member, employee or agent of such committee or other person appearing before it to be prevented from testifying as to matters within their personal knowledge and in accordance with the other provisions of this section, but such witness cannot be questioned about the testimony or other proceedings before any investigation or before any committee.

(3) Nothing in this section shall limit authority otherwise provided by law of a health care licensing board of the state of Missouri to obtain information by subpoena or other authorized process from investigation committees or to require disclosure of otherwise confidential information relating to matters and investigations within the jurisdiction of such health care

licensing boards; provided, however, that such information, once obtained by such board and associated persons, shall be governed in accordance with the provisions of this subsection.

(4) Nothing in this section shall limit authority otherwise provided by law in subdivisions (5) and (6) of subsection 2 of section 630.140 concerning access to records by the entity or agency authorized to implement a system to protect and advocate the rights of persons with developmental disabilities under the provisions of 42 U.S.C. Sections 15042 to 15044 and the entity or agency authorized to implement a system to protect and advocate the rights of persons with mental illness under the provisions of 42 U.S.C. 10801. In addition, nothing in this section shall serve to negate assurances that have been given by the governor of Missouri to the U.S. Administration on Developmental Disabilities, Office of Human Development Services, Department of Health and Human Services concerning access to records by the agency designated as the protection and advocacy system for the state of Missouri. However, such information, once obtained by such entity or agency, shall be governed in accordance with the provisions of this subsection.

4. Anyone who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from the report shall be immune from any civil liability for making such a report or for testifying unless such person acted in bad faith or with malicious purpose.

5. Within five working days after a report required to be made pursuant to this section is received, the person making the report shall be notified in writing of its receipt and of the initiation of the investigation.

6. No person who directs or exercises any authority in a residential facility, day program or specialized service shall evict, harass, dismiss or retaliate against a patient, resident or client or employee because he or she or any member of his or her family has made a report of any violation or suspected violation of laws, ordinances or regulations applying to the facility which he or she has reasonable cause to believe has been committed or has occurred.

7. Any person who is discharged as a result of an administrative substantiation of allegations contained in a report of abuse or neglect may, after exhausting administrative remedies as provided in chapter 36, appeal such decision to the circuit court of the county in which such person resides within ninety days of such final administrative decision. The court may accept an appeal up to twenty-four months after the party filing the appeal received notice of the department's determination, upon a showing that:

- (1) Good cause exists for the untimely commencement of the request for the review;
- (2) If the opportunity to appeal is not granted it will adversely affect the party's opportunity for employment; and
- (3) There is no other adequate remedy at law.

**630.183. OFFICERS MAY AUTHORIZE MEDICAL TREATMENT FOR PATIENT.** — Subject to other provisions of this chapter, the head of a mental health or [mental retardation] **developmental disability** facility may authorize the medical and surgical treatment of a patient or resident under the following circumstances:

- (1) Upon consent of a patient or resident who is competent;
- (2) Upon consent of a parent or legal guardian of a patient or resident who is a minor or legally incapacitated;
- (3) Pursuant to the provisions of chapter 431;
- (4) Pursuant to an order of a court of competent jurisdiction.

**630.192. LIMITATIONS ON RESEARCH ACTIVITIES IN MENTAL HEALTH FACILITIES AND PROGRAMS.** — No biomedical or pharmacological research shall be conducted in any mental health facility or mental health program in which people may be civilly detained pursuant to chapter 632 or in any public or private residential facilities or day programs operated, funded or licensed by the department for persons affected by [mental retardation] **intellectual disabilities**,



developmental disabilities, mental illness, mental disorders or alcohol or drug abuse unless such research is intended to alleviate or prevent the disabling conditions or is reasonably expected to be of direct therapeutic benefit to the participants. Without a specific court order, no involuntary patient shall consent to participate in any biomedical or pharmacological research. The application for the order shall be filed in the court having probate jurisdiction in the county in which the mental health facility is located, provided, however, that if the patient requests that the hearing be held by the court which has committed the patient, or if the court having probate jurisdiction deems it appropriate, the hearing on the application shall be transferred to the committing court.

**630.210. CHARGES FOR PAY PATIENTS — EACH FACILITY CONSIDERED A SEPARATE UNIT — DIRECTOR TO DETERMINE RULES FOR MEANS TEST AND DOMICILE VERIFICATION — FAILURE TO PAY, EFFECT — EXCEPTIONS, EMERGENCY TREATMENT FOR TRANSIENTS — WAIVER OF MEANS TEST FOR CERTAIN CHILDREN, WHEN. —** 1. The director shall determine the maximum amount for services which shall be charged in each of the residential facilities, day programs or specialized services operated or funded by the department for full-time or part-time inpatient, resident or outpatient evaluation, care, treatment, habilitation, rehabilitation or other service rendered to persons affected by mental disorder, mental illness, [mental retardation,] **intellectual disability**, developmental disability, or drug or alcohol abuse. The maximum charge shall be related to the per capita inpatient cost or actual outpatient evaluation or other service costs of each facility, program or service, which may vary from one locality to another. The director shall promulgate rules setting forth a reasonable standard means test which shall be applied by all facilities, programs and services operated or funded by the department in determining the amount to be charged to persons receiving services. The department shall pay, out of funds appropriated to it for such purpose, all or part of the costs for the evaluation, care, treatment, habilitation, rehabilitation or room and board provided or arranged by the department for any patient, resident or client who is domiciled in Missouri and who is unable to pay fully for services.

2. The director shall apply the standard means test annually and may make application of the test upon his own initiative or upon request of an interested party whenever evidence is offered tending to show that the current support status of any patient, resident or client is no longer proper. Any change of support status shall be retroactive to the date of application or request for review. If the persons responsible to pay under section 630.205 or 552.080 refuse to cooperate in providing information necessary to properly apply the test or if retroactive benefits are paid on behalf of the patient, resident or client, the charges may be retroactive to a date prior to the date of application or request for review. The decision of the director in determining the amount to be charged for services to a patient, resident or client shall be final. Appeals from the determination may be taken to the circuit court of Cole County or the county where the person responsible for payment resides in the manner provided by chapter 536.

3. The department shall not pay for services provided to a patient, resident or client who is not domiciled in Missouri unless the state is fully reimbursed for the services; except that the department may pay for services provided to a transient person for up to thirty days pending verification of his domiciliary state, and for services provided for up to thirty days in an emergency situation. The director shall promulgate rules for determination of the domiciliary state of any patient, resident or client receiving services from a facility, program or service operated or funded by the department.

4. Whenever a patient, resident or client is receiving services from a residential facility, day program or specialized service operated or funded by the department, and the state, county, municipality, parent, guardian or other person responsible for support of the patient, resident or client fails to pay any installment required to be paid for support, the department or the residential facility, day program or specialized service may discharge the patient, resident or client as

provided by chapter 31. The patient, resident or client shall not be discharged under this subsection until the final disposition of any appeal filed under subsection 2 of this section.

5. The standard means test may be waived for a child in need of mental health services to avoid inappropriate custody transfers to the children's division. The department of mental health shall notify the child's parent or custodian that the standard means test may be waived. The department of mental health shall promulgate rules for waiving the standard means test. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

**630.335. CANTEENS AND COMMISSARIES AUTHORIZED — OPERATION.** — 1. With the approval of the director, the head of any of the department's mental health or [mental retardation] **developmental disability** facilities or regional centers may establish and operate a canteen or commissary for the use and benefit of patients, residents and employees.

2. Each facility or center shall keep revenues received from the canteen or commissary established and operated by the head of the facility in a separate account. The acquisition cost of goods sold and other expenses shall be paid from this account. A minimum amount of money necessary to meet cash flow needs and current operating expenses may be kept in this account. The remaining funds from sales of each commissary or canteen shall be deposited monthly in the state treasury to the credit of the mental health trust fund. The money in the fund shall be expended, upon appropriation, for the benefit of the patients in the improvement of the recreation, habilitation or treatment services or equipment of the facility or center from which derived. The provisions of section 33.080 to the contrary notwithstanding, the money in the mental health trust fund shall be retained for the purposes specified in this section and shall not revert or be transferred to general revenue. The department of mental health shall keep accurate records of the source of money deposited in the mental health trust fund and shall allocate appropriations from the fund to the appropriate institution, facility or center.

**630.405. PURCHASE OF SERVICES, PROCEDURE — COMMISSIONER OF ADMINISTRATION TO COOPERATE — RULES, PROCEDURE.** — 1. The department may purchase services for patients, residents or clients from private and public vendors in this state with funds appropriated for this purpose.

2. Services that may be purchased may include prevention, diagnosis, evaluation, treatment, habilitation, rehabilitation, transportation and other special services for persons affected by mental disorders, mental illness, [mental retardation,] **intellectual disabilities**, developmental disabilities or alcohol or drug abuse.

3. The commissioner of administration, in consultation with the director, shall promulgate rules establishing procedures consistent with the usual state purchasing procedures pursuant to chapter 34 for the purchase of services pursuant to this section. The commissioner may authorize the department to purchase any technical service which, in his judgment, can best be purchased direct pursuant to chapter 34. The commissioner shall cooperate with the department to purchase timely services appropriate to the needs of the patients, residents or clients of the department.

4. The commissioner of administration may promulgate rules authorizing the department to review, suspend, terminate, or otherwise take remedial measures with respect to contracts with vendors as defined in subsection 1 of this section that fail to comply with the requirements of section 210.906.

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5. The commissioner of administration may promulgate rules for a waiver of chapter 34 bidding procedures for the purchase of services for patients, residents and clients with funds appropriated for that purpose if, in the commissioner's judgment, such services can best be purchased directly by the department.

6. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536.

**630.425. INCENTIVE GRANTS AUTHORIZED — RULES AND REGULATIONS — DURATION OF GRANTS.** — 1. The department may make incentive grants from funds specifically appropriated for this purpose to private and public entities seeking to establish a residential facility, day program or specialized service for persons affected by mental disorders, mental illness, [mental retardation,] **intellectual disabilities**, developmental disabilities or alcohol or drug abuse in unserved, underserved or inappropriately served areas of the state.

2. The department shall promulgate rules establishing procedures for monitoring and auditing such grants.

3. The grants shall be of limited duration of one year and renewable for only one additional year if the funds are appropriated for this purpose.

**630.510. INVENTORY OF FACILITIES — PLAN FOR NEW FACILITIES.** — At least once every three years, the department shall conduct a complete statewide inventory of its existing facilities and a survey of needs for persons affected by mental disorders, mental illness, [mental retardation,] **intellectual disabilities**, developmental disabilities and alcohol or drug abuse, and shall make a public report of its inventory and survey and recommend a state plan for the construction of additional facilities.

**630.605. PLACEMENT PROGRAMS TO BE MAINTAINED.** — The department shall establish a placement program for persons affected by a mental disorder, mental illness, [mental retardation,] **intellectual disability**, developmental disability or alcohol or drug abuse. The department may utilize residential facilities, day programs and specialized services which are designed to maintain a person who is accepted in the placement program in the least restrictive environment in accordance with the person's individualized treatment, habilitation or rehabilitation plan. The department shall license, certify and fund, subject to appropriations, a continuum of facilities, programs and services short of admission to a department facility to accomplish this purpose.

**630.610. APPLICATIONS FOR PLACEMENT — CRITERIA TO BE CONSIDERED.** — 1. If the head of a facility operated by the department determines that placement out of the facility would be appropriate for any patient or resident, the head of the facility shall refer the patient or resident for placement according to the department's rules. If a patient or resident is accepted and placed under this chapter, then the patient or resident shall be considered as discharged as a patient or resident of the facility and reclassified as a client of the department.

2. Any person, his authorized representative, his parent, if the person is a minor, his guardian, a court of competent jurisdiction or a state or private facility or agency having custody of the person may apply for placement of the person under this chapter.

3. If the department finds the application to be appropriate after review, it shall provide for or arrange for a comprehensive evaluation, and the preparation of an individualized treatment, habilitation or rehabilitation plan of the person seeking to be placed, whether from a department facility or directly, to determine if he meets the following criteria:

(1) The person is affected by a mental disorder, mental illness, [mental retardation,] **intellectual disability**, developmental disability or alcohol or drug abuse; and

(2) The person is in need of special care, treatment, habilitation or rehabilitation services as described in this chapter, including room or board, or both; provided, however, that no person shall be accepted for placement if the sole reason for the application or referral is that residential placement is necessary for a school-aged child, as defined in chapter 162, to receive an appropriate special education.

**630.635. PROCEDURE WHEN CONSENT NOT GIVEN — REVIEW PANEL TO BE NAMED — NOTICE AND HEARING REQUIRED — APPEAL — EMERGENCY TRANSFERS MAY BE MADE. —**

1. If a resident in a [mental retardation] **developmental disability** facility, or his parent if he is a minor, or his legal guardian refuses to consent to the proposed placement, the head of the [mental retardation] **developmental disability** facility may petition, under the procedures in section 633.135, the director of the division of [mental retardation and] developmental disabilities to determine whether the proposed placement is appropriate under chapter 633.

2. If a patient in a mental health facility, or his parent if he is a minor, or his legal guardian refuses to consent to the proposed placement, the head of the mental health facility may petition the director of the division of comprehensive psychiatric services to determine whether the proposed placement is appropriate under sections 630.610, 630.615 and 630.620.

3. The director of the division of comprehensive psychiatric services shall refer the petition to the chairman of the state advisory council for his division who shall appoint and convene a review panel composed of three members. At least one member of the panel shall be a family member or guardian of a patient who resides in a mental health facility operated by the department. The remaining members of the panel shall be persons who are from nongovernmental organizations or groups concerned with the prevention of mental disorders, evaluation, care, treatment or rehabilitation of persons affected by the same conditions as the patient the department seeks to place and who are familiar with services and service needs of persons in mental health facilities operated by the department. No member of the panel shall be an officer or employee of the department.

4. After prompt notice and hearing, the panel shall determine whether the proposed placement is appropriate under sections 630.610, 630.615 and 630.620. The hearing shall be electronically recorded for purposes of obtaining a transcript. The council shall forward the tape recording, recommended findings of fact, conclusions of law, and decision to the director who shall enter findings of fact, conclusions of law, and the final decision. Notice of the director's decision shall be sent to the patient, or his parent if he is a minor, or his guardian by registered mail, return receipt requested. The director shall expedite this review in all respects.

5. If the patient, or his parent if he is a minor, or his guardian disagrees with the decision of the director, he may appeal the decision, within thirty days after notice of the decision is sent, to the circuit court of the county where the patient or resident, or his parent if he is a minor, or his guardian resides. The court shall review the record, proceedings and decision of the director not only under the provisions of chapter 536, but also as to whether or not the head of the facility or the department sustained its burden of proof that the proposed placement is appropriate under sections 630.110, 630.115 and 630.120. The court shall expedite this review in all respects. Notwithstanding the provisions of section 536.140, a court may, for good cause shown, hear and consider additional competent and material evidence.

6. The notice and procedure for the hearing by the panel shall be in accordance with chapter 536.

7. In all proceedings either before the panel or before the circuit court, the burden of proof shall be upon the head of the facility to demonstrate by a preponderance of evidence that the proposed placement is appropriate under the criteria set forth in sections 630.610, 630.615 and 630.120.

8. Pending the convening of the hearing panel and the final decision of the director or the court if the director's decision is appealed, the department shall not place or discharge the patient

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from a facility except that the department may temporarily transfer such patient in the case of a medical emergency.

9. There shall be no retaliation against any state employee as the result of a good faith decision to place the patient which is appealed and who testifies during a hearing or otherwise provides information or evidence in regard to a proposed placement.

**630.705. RULES FOR STANDARDS FOR FACILITIES AND PROGRAMS FOR PERSONS AFFECTED BY MENTAL DISORDER, MENTAL ILLNESS, OR DEVELOPMENTAL DISABILITY — CLASSIFICATION OF FACILITIES AND PROGRAMS — CERTAIN FACILITIES AND PROGRAMS NOT TO BE LICENSED.** — 1. The department shall promulgate rules setting forth reasonable standards for residential facilities and day programs for persons who are affected by a mental disorder, mental illness, [mental retardation] **intellectual disability**, or developmental disability.

2. The rules shall provide for the facilities and programs to be reasonably classified as to resident or client population, size, type of services or other reasonable classification. The department shall design the rules to promote and regulate safe, humane and adequate facilities and programs for the care, treatment, habilitation and rehabilitation of persons described in subsection 1 of this section.

3. The following residential facilities and day programs shall not be licensed by the department:

- (1) Any facility or program which relies solely upon the use of prayer or spiritual healing;
- (2) Any educational, special educational or vocational program operated, certified or approved by the state board of education pursuant to chapters 161, 162 and 178, and regulations promulgated by the board;
- (3) Any hospital, facility, program or entity operated by this state or the United States; except that facilities operated by the department shall meet these standards;
- (4) Any hospital, facility or other entity, excluding those with persons who are mentally retarded and developmentally disabled as defined in section 630.005 otherwise licensed by the state and operating under such license and within the limits of such license, unless the majority of the persons served receive activities and services normally provided by a licensed facility pursuant to this chapter;
- (5) Any hospital licensed by the department of social services as a psychiatric hospital pursuant to chapter 197;
- (6) Any facility or program accredited by the Joint Commission on Accreditation of Hospitals, the American Osteopathic Association, Accreditation Council for Services for Mentally Retarded or other Developmentally Disabled Persons, Council on Accreditation of Services for Children and Families, Inc., or the Commission on Accreditation of Rehabilitation Facilities;
- (7) Any facility or program caring for less than four persons whose care is not funded by the department.

**630.715. LICENSING OF RESIDENTIAL FACILITIES AND DAY PROGRAMS — FEE — AFFIDAVIT.** — 1. The department shall establish a procedure for the licensing of residential facilities and day programs for persons described in section 630.705, which procedure shall provide for the acceptance of a license, a temporary operating permit or a probationary license issued by the department of social services under sections 198.006 to 198.096 as regards the licensing requirements in the following areas:

- (1) General medical and health care;
- (2) Adequate physical plant facilities including fire safety, housekeeping and maintenance standards;
- (3) Food service facilities;
- (4) Safety precautions;
- (5) Drugs and medications;

- (6) Uniform system of record keeping;
- (7) Resident and client rights and grievance procedures.

However, the department shall require annually that any facilities and programs already licensed by the department of social services under chapter 198 which desire to provide services to persons diagnosed [as mentally disordered, mentally ill, mentally retarded or developmentally disabled] **with a mental disorder, mental illness, or developmental disability** in accordance with sections 630.705 to 630.760 meet the department's requirements in excess of those required for licensure or certification under chapter 198, which are appropriate to admission criteria and care, treatment, habilitation and rehabilitation needs of such persons.

2. Applications for licenses shall be made to the department upon forms provided by it and shall contain such information and documents as the department requires, including, but not limited to, affirmative evidence of ability to comply with the rules adopted by the department. Each application for a license, except applications from a governmental unit or a facility caring for less than four persons, which shall not pay any fee, shall be accompanied by a license fee of ten dollars for establishments which accept more than three but less than ten persons and fifty dollars from establishments which accept ten or more. The license fee shall be paid to the director of revenue for deposit to the general revenue fund of the state treasury.

3. An applicant for a license shall submit an affidavit under oath that all documents required by the department to be filed pursuant to this section are true and correct to the best of his knowledge and belief, that the statements contained in the application are true and correct to the best of his knowledge and belief and that all required documents are either included with the application or are currently on file with the department.

**630.735. LICENSE REQUIRED.** — 1. No person or governmental unit, acting separately or jointly with any other person or governmental unit, shall establish, conduct or maintain any residential facility in this state for the care, treatment, habilitation or rehabilitation of [mentally retarded or developmentally disabled] persons **with an intellectual disability or a developmental disability** without a valid license issued by the department. Licenses in effect on August 13, 1982, shall continue in effect until they regularly expire unless sooner revoked; except that in no case shall a license continue in effect beyond one year after August 13, 1982.

2. After October 1, 1983, no person or governmental unit, acting separately or jointly with any other person or governmental unit, shall establish, conduct or maintain any residential facility or day program in this state for care, treatment, habilitation or rehabilitation of persons diagnosed [as mentally disordered or mentally ill] **with a mental disorder or mental illness** or day program for [mentally retarded or developmentally disabled] persons **with an intellectual disability or an developmental disability** unless the facilities or programs are licensed by the department.

**632.005. DEFINITIONS.** — As used in chapter 631 and this chapter, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Comprehensive psychiatric services", any one, or any combination of two or more, of the following services to persons affected by mental disorders other than [mental retardation or] **intellectual disabilities** or developmental disabilities: inpatient, outpatient, day program or other partial hospitalization, emergency, diagnostic, treatment, liaison, follow-up, consultation, education, rehabilitation, prevention, screening, transitional living, medical prevention and treatment for alcohol abuse, and medical prevention and treatment for drug abuse;

(2) "Council", the Missouri advisory council for comprehensive psychiatric services;

(3) "Court", the court which has jurisdiction over the respondent or patient;

(4) "Division", the division of comprehensive psychiatric services of the department of mental health;

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(5) "Division director", director of the division of comprehensive psychiatric services of the department of mental health, or his designee;

(6) "Head of mental health facility", superintendent or other chief administrative officer of a mental health facility, or his designee;

(7) "Judicial day", any Monday, Tuesday, Wednesday, Thursday or Friday when the court is open for business, but excluding Saturdays, Sundays and legal holidays;

(8) "Licensed physician", a physician licensed pursuant to the provisions of chapter 334 or a person authorized to practice medicine in this state pursuant to the provisions of section 334.150;

(9) "Licensed professional counselor", a person licensed as a professional counselor under chapter 337 and with a minimum of one year training or experience in providing psychiatric care, treatment, or services in a psychiatric setting to individuals suffering from a mental disorder;

(10) "Likelihood of serious harm" means any one or more of the following but does not require actual physical injury to have occurred:

(a) A substantial risk that serious physical harm will be inflicted by a person upon his own person, as evidenced by recent threats, including verbal threats, or attempts to commit suicide or inflict physical harm on himself. Evidence of substantial risk may also include information about patterns of behavior that historically have resulted in serious harm previously being inflicted by a person upon himself;

(b) A substantial risk that serious physical harm to a person will result or is occurring because of an impairment in his capacity to make decisions with respect to his hospitalization and need for treatment as evidenced by his current mental disorder or mental illness which results in an inability to provide for his own basic necessities of food, clothing, shelter, safety or medical care or his inability to provide for his own mental health care which may result in a substantial risk of serious physical harm. Evidence of that substantial risk may also include information about patterns of behavior that historically have resulted in serious harm to the person previously taking place because of a mental disorder or mental illness which resulted in his inability to provide for his basic necessities of food, clothing, shelter, safety or medical or mental health care; or

(c) A substantial risk that serious physical harm will be inflicted by a person upon another as evidenced by recent overt acts, behavior or threats, including verbal threats, which have caused such harm or which would place a reasonable person in reasonable fear of sustaining such harm. Evidence of that substantial risk may also include information about patterns of behavior that historically have resulted in physical harm previously being inflicted by a person upon another person;

(11) "Mental health coordinator", a mental health professional who has knowledge of the laws relating to hospital admissions and civil commitment and who is authorized by the director of the department, or his designee, to serve a designated geographic area or mental health facility and who has the powers, duties and responsibilities provided in this chapter;

(12) "Mental health facility", any residential facility, public or private, or any public or private hospital, which can provide evaluation, treatment and, inpatient care to persons suffering from a mental disorder or mental illness and which is recognized as such by the department or any outpatient treatment program certified by the department of mental health. No correctional institution or facility, jail, regional center or [mental retardation] **developmental disability** facility shall be a mental health facility within the meaning of this chapter;

(13) "Mental health professional", a psychiatrist, resident in psychiatry, psychologist, psychiatric nurse, licensed professional counselor, or psychiatric social worker;

(14) "Mental health program", any public or private residential facility, public or private hospital, public or private specialized service or public or private day program that can provide care, treatment, rehabilitation or services, either through its own staff or through contracted providers, in an inpatient or outpatient setting to persons with a mental disorder or mental illness or with a diagnosis of alcohol abuse or drug abuse which is recognized as such by the department.

No correctional institution or facility or jail may be a mental health program within the meaning of this chapter;

(15) "Ninety-six hours" shall be construed and computed to exclude Saturdays, Sundays and legal holidays which are observed either by the court or by the mental health facility where the respondent is detained;

(16) "Peace officer", a sheriff, deputy sheriff, county or municipal police officer or highway patrolman;

(17) "Psychiatric nurse", a registered professional nurse who is licensed under chapter 335 and who has had at least two years of experience as a registered professional nurse in providing psychiatric nursing treatment to individuals suffering from mental disorders;

(18) "Psychiatric social worker", a person with a master's or further advanced degree from an accredited school of social work, practicing pursuant to chapter 337, and with a minimum of one year training or experience in providing psychiatric care, treatment or services in a psychiatric setting to individuals suffering from a mental disorder;

(19) "Psychiatrist", a licensed physician who in addition has successfully completed a training program in psychiatry approved by the American Medical Association, the American Osteopathic Association or other training program certified as equivalent by the department;

(20) "Psychologist", a person licensed to practice psychology under chapter 337 with a minimum of one year training or experience in providing treatment or services to mentally disordered or mentally ill individuals;

(21) "Resident in psychiatry", a licensed physician who is in a training program in psychiatry approved by the American Medical Association, the American Osteopathic Association or other training program certified as equivalent by the department;

(22) "Respondent", an individual against whom involuntary civil detention proceedings are instituted pursuant to this chapter;

(23) "Treatment", any effort to accomplish a significant change in the mental or emotional conditions or the behavior of the patient consistent with generally recognized principles or standards in the mental health professions.

**632.105. ADULTS TO BE ACCEPTED FOR EVALUATION, WHEN, BY WHOM — MAY THEN BE ADMITTED TO MENTAL HEALTH FACILITY — CONSENT REQUIRED.** — 1. The head of a private mental health facility may, and the head of a department mental health facility shall, except in the case of a medical emergency and subject to the availability of suitable programs and accommodations, accept for evaluation, on an outpatient basis if practicable, any person eighteen years of age or over who applies for his admission. The department may require that a community-based service where the person resides perform the evaluation pursuant to an affiliation agreement and contract with the department.

2. If a person is diagnosed as having a mental disorder, other than [mental retardation] **an intellectual disability** or developmental disability without another accompanying mental disorder, and is determined to be in need of inpatient treatment, the person may be admitted by a private mental health facility and shall be admitted by a department mental health facility, if suitable accommodations are available, for care and treatment as an inpatient for such periods and under such conditions as authorized by law. The department may require that a community-based service where the patient resides admit the person for inpatient care and treatment pursuant to an affiliation agreement and contract with the department.

3. A person who is admitted under this section is a voluntary patient and shall have the right to consent to evaluation, care, treatment and rehabilitation and shall not be medicated without his prior voluntary and informed consent; except that medication may be given in emergency situations.

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**632.110. MINORS TO BE ACCEPTED FOR EVALUATION, WHEN, BY WHOM — MAY THEN BE ADMITTED TO MENTAL HEALTH FACILITY — PARENT OR GUARDIAN TO CONSENT — PEACE OFFICER MAY TRANSPORT TO FACILITY, WHEN.** — 1. The head of a private mental health facility may, and the head of a department mental health facility shall, except in the case of a medical emergency and subject to the availability of suitable programs and accommodations, accept for evaluation, on an outpatient basis if practicable, any minor for whom an application for voluntary admission is made by his parent or other legal custodian. The department may require that a community-based service where the minor resides perform the evaluation pursuant to an affiliation agreement or contract with the department.

2. If the minor is diagnosed as having a mental disorder, other than [mental retardation] **an intellectual disability** or developmental disability without another accompanying mental disorder, and found suitable for inpatient treatment as a result of the evaluation, the minor may be admitted by a private mental health facility or shall be admitted by a department mental health facility, if suitable accommodations are available, for care, treatment and rehabilitation as an inpatient for such periods and under such conditions as authorized by law. The department may require that a community-based service where the patient resides admit the person for inpatient care, treatment and rehabilitation pursuant to an affiliation agreement and contract with the department.

3. The parent or legal custodian who applied for the admission of the minor shall have the right to authorize his evaluation, care, treatment and rehabilitation and the right to refuse permission to medicate the minor; except that medication may be given in emergency situations.

4. The parent or legal custodian may request a peace officer to take a minor into custody and transport him to the mental health facility for evaluation if the parent or legal custodian applies for such evaluation under subsection 1 of this section.

**632.115. JUVENILES TO BE ADMITTED BY HEADS OF FACILITIES WHEN COMMITTED.** — The head of a private mental health facility may, and the head of a public mental health facility shall, except in the case of medical emergency and subject to the availability of suitable programs and accommodations, admit any minor who has symptoms of mental disorder other than [mental retardation] **an intellectual disability** or developmental disability, who is under the jurisdiction of a juvenile court and who is committed to a facility not operated by the state of Missouri under section 211.181 or to the custody of the director pursuant to sections 211.201 to 211.207 for assignment by the director to an appropriate facility.

**632.120. INCOMPETENTS TO BE ACCEPTED BY HEADS OF FACILITIES UPON APPLICATION — DURATION OF ADMISSION FOR EVALUATION — CONSENT MAY BE AUTHORIZED.** — 1. The head of a private mental health facility may, and the head of a department facility shall, except in the case of a medical emergency and subject to the availability of suitable programs and accommodations, accept for evaluation and treatment, on an outpatient basis if practicable, any person who has been declared incapacitated by a court of competent jurisdiction and for whom an application for voluntary admission is made by his guardian. The department may require that a community-based service where the person resides perform the evaluation pursuant to an affiliation agreement and contract with the department.

2. If the person is diagnosed as having a mental disorder, other than [mental retardation or] developmental disability without another accompanying mental disorder, and the person is found suitable for inpatient treatment as a result of the evaluation, the person may be admitted by a private mental health facility or shall be admitted by a public mental health facility, if suitable accommodations are available, for care, treatment and rehabilitation as an inpatient for up to thirty days after admission for evaluation and treatment.

3. If further inpatient services are recommended, the person may remain in the facility only if his guardian is authorized by the court to continue the inpatient hospitalization. The court may

authorize the guardian to consent to evaluation, care, treatment, including medication, and rehabilitation on an inpatient basis.

**632.370. TRANSFER OF PATIENT BY DEPARTMENT — HEARING ON TRANSFER OF MINOR TO ADULT WARD — CONSENT REQUIRED — NOTICE TO BE GIVEN — CONSIDERATIONS — TRANSFER TO FEDERAL FACILITY, NOTICE, RESTRICTIONS.** — 1. The department may transfer, or authorize the transfer of, an involuntary patient detained under this chapter, chapter 211, chapter 475, or chapter 552 from one mental health program to another if the department determines that it would be consistent with the medical needs of the patient to do so. If a minor is transferred from a ward for minors to an adult ward, the department shall conduct a due process hearing within six days of such transfer during which hearing the head of the program shall have the burden to show that the transfer is appropriate for the medical needs of the minor. Whenever a patient is transferred, written notice thereof shall be given after obtaining the consent of the patient, his parent if he is a minor or his legal guardian to his legal guardian, parents and spouse, or, if none be known, his nearest known relative or friend. In all such transfers, due consideration shall be given to the relationship of the patient to his family, legal guardian or friends, so as to maintain relationships and encourage visits beneficial to the patient. The head of the mental health program shall notify the court ordering detention or commitment, the patient's last known attorney of record and the mental health coordinator for the region, and if the person was committed pursuant to chapter 552, to the prosecuting attorney of the jurisdiction where the person was tried and acquitted, of any transfer from one mental health facility to another. The prosecutor of the jurisdiction where the person was tried and acquitted shall use their best efforts to notify the victims of dangerous felonies. Notification by the appropriate person or agency by certified mail to the most current address provided by the victim shall constitute compliance with the victim notification requirement of this section. In the case of a patient committed under chapter 211, the court, on its own motion, may hold a hearing on the transfer to determine whether such transfer is appropriate to the medical needs of the patient.

2. Upon receipt of a certificate of an agency of the United States that facilities are available for the care or treatment of any individual heretofore ordered involuntarily detained, treated and evaluated pursuant to this chapter in any facility for the care or treatment of [the mentally ill, mentally retarded or developmentally disabled] **persons with a mental illness or an intellectual disability or a developmental disability** and that such individual is eligible for care or treatment in a hospital or institution of such agency, the department may cause his transfer to such agency of the United States for hospitalization. Upon effecting any such transfer, the court ordering hospitalization, the legal guardian, spouse and parents, or, if none be known, his nearest known relative or friend shall be notified thereof immediately by the department. No person shall be transferred to an agency of the United States if he is confined pursuant to a conviction for any felony or misdemeanor or if he has been acquitted of any felony or misdemeanor solely on the ground of mental illness, unless prior to transfer the court originally ordering confinement of such person enters an order for the transfer after appropriate motion and hearing. Any person transferred to an agency of the United States shall be deemed to be hospitalized by such agency pursuant to the original order of hospitalization.

**632.380. PROVISIONS OF CHAPTER NOT TO APPLY TO CERTAIN PERSONS.** — Persons [who are mentally retarded, developmentally disabled,] **with an intellectual disability or a developmental disability or who are** senile or impaired by alcoholism or drug abuse shall not be detained judicially under this chapter, unless they are also mentally ill and as a result present likelihood of serious harm to themselves or to others. Such persons may, however, be committed upon court order under this chapter and the provisions of chapter 475 relating to incapacitated

persons, pursuant to chapter 211 relating to juveniles, or may be admitted as voluntary patients under section 632.105 or 632.120.

**633.005. DEFINITIONS.** — As used in this chapter, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Comprehensive evaluation", a study, including a sequence of observations and examinations, of an individual leading to conclusions and recommendations formulated jointly by an interdisciplinary team of persons with special training and experience in the diagnosis and habilitation of [the mentally retarded and developmentally disabled] **a person with an intellectual disability or a developmental disability**;

(2) "Division", the division of [mental retardation and] developmental disabilities of the department of mental health;

(3) "Division director", the director of the division of [mental retardation and] developmental disabilities of the department of mental health, or his designee;

(4) "Group home", a residential facility serving nine or fewer residents, similar in appearance to a single-family dwelling and providing basic health supervision, habilitation training in skills of daily and independent living and community integration, and social support. Group homes do not include a family living arrangement or individualized supported living;

(5) "[Mental retardation] **Developmental disability** facility", a private or department facility, other than a regional center, which admits persons [who are mentally retarded or developmentally disabled] **with an intellectual disability or a developmental disability** for residential habilitation and other services and which is qualified or licensed as such by the department pursuant to chapter 630. Such terms shall include, but shall not be limited to, habilitation centers and private or public residential facilities for persons [who are developmentally disabled] **with an intellectual disability or a developmental disability**;

(6) "Regional center", an entity so designated by the department to provide, directly or indirectly, for comprehensive [mental retardation and] developmental disability services under this chapter in a particular region;

(7) "Respite care", temporary and short-term residential care, sustenance and supervision of a [mentally retarded or developmentally disabled] person **with an intellectual disability or a developmental disability** who otherwise resides in a family home;

(8) "State advisory council", the Missouri [advisory council on mental retardation and] developmental disabilities **council** as created in section 633.020.

**633.010. RESPONSIBILITIES, POWERS, FUNCTIONS AND DUTIES OF DIVISION.** — 1. The division of [mental retardation and] developmental disabilities, created by the omnibus reorganization act of 1974, section 9, appendix B, RSMo, shall be a division of the department. The division shall have the responsibility of insuring that [mental retardation] **intellectual disabilities** and developmental disabilities prevention, evaluation, care, habilitation and rehabilitation services are accessible, wherever possible. The division shall have and exercise supervision of division residential facilities, day programs and other specialized services operated by the department, and oversight over facilities, programs and services funded or licensed by the department.

2. The powers, functions and duties of the division shall include the following:

(1) Provision of funds for the planning and implementation of accessible programs to serve persons affected by [mental retardation or] **intellectual disabilities and** developmental disabilities;

(2) Review of [mental retardation and] developmental disabilities plans submitted to receive state and federal funds allocated by the department;

(3) Provision of technical assistance and training to community-based programs to assist in the planning and implementation of quality services;

(4) Assurance of program quality in compliance with such appropriate standards as may be established by the department;

(5) Sponsorship and encouragement of research into the causes, effects, prevention, habilitation and rehabilitation of [mental retardation and] **intellectual disabilities and developmental disabilities**;

(6) Provision of public information relating to [mental retardation and] developmental disabilities and their habilitation;

(7) Cooperation with nonstate governmental agencies and the private sector in establishing, conducting, integrating and coordinating [mental retardation and] developmental disabilities programs and projects;

(8) Cooperation with other state agencies to encourage appropriate health facilities to serve, without discrimination, persons [who are mentally retarded or developmentally disabled] **with an intellectual disability or a developmental disability** who require medical care and to provide them with adequate and appropriate services;

(9) Participation in developing and implementing a statewide plan to alleviate problems relating to [mental retardation and] developmental disabilities and to overcome the barriers to their solutions;

(10) Encouragement of coordination of division services with other divisions of the department and other state agencies;

(11) Encouragement of the utilization, support, assistance and dedication of volunteers to assist persons affected by [mental retardation and] **intellectual disabilities or developmental disabilities** to be accepted and integrated into normal community activities;

(12) Evaluation, or the requirement of the evaluation, including the collection of appropriate necessary information, of [mental retardation or] developmental disabilities programs to determine their cost-and-benefit effectiveness;

(13) Participation in developing standards for residential facilities, day programs and specialized services operated, funded or licensed by the department for persons affected by [mental retardation or] developmental disabilities.

**633.020. ADVISORY COUNCIL ON DEVELOPMENTAL DISABILITIES — MEMBERS, NUMBER, TERMS, QUALIFICATIONS, APPOINTMENT — ORGANIZATION, MEETINGS — DUTIES.** — 1. The "Missouri [Advisory Council on Mental Retardation and] Developmental Disabilities **Council**", consisting of up to twenty-five members, the number to be determined under the council bylaws, is hereby created to advise the division and the division director.

2. The members of the Missouri planning council for developmental disabilities, created by executive order of the governor on October 26, 1979, for the remainder of their appointed terms, and up to five persons to be appointed by the director, for staggered terms of three years each, shall act as such advisory body. At the expiration of the term of each member, the director shall appoint an individual who shall hold office for a term of three years. At least one-half of the members shall be consumers. Other members shall have professional, research or personal interest in [mental retardation] **intellectual disabilities** and developmental disabilities. At least one member shall be a manager of or a member of the board of directors of a sheltered workshop as defined in section 178.900. No more than one-fourth of the members shall be vendors or members of boards of directors, employees or officers of vendors, or any of their spouses, if such vendors receive more than fifteen hundred dollars under contract with the department; except that members of boards of directors of not-for-profit corporations shall not be considered members of board of directors of vendors under this subsection.

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3. Meetings shall be held at least every ninety days or at the call of the division director or the council chairman, who shall be elected by the council.

4. Each member shall be reimbursed for reasonable and necessary expenses, including travel expenses, pursuant to department travel regulations, actually incurred in the performance of his official duties.

5. The council may be divided into subcouncils in accordance with its bylaws.

6. The council shall collaborate with the department in developing and administering a state plan for [mental retardation and] **intellectual disabilities and** developmental disabilities services.

7. No member of a state advisory council may participate in or seek to influence a decision or vote of the council if the member would be directly involved with the matter or if he would derive income from it. A violation of the prohibition contained herein shall be grounds for a person to be removed as a member of the council by the director.

8. The council shall be advisory and shall:

(1) Promote meetings and programs for the discussion of reducing the debilitating effects of [mental retardation and] **intellectual disabilities and** developmental disabilities and disseminate information in cooperation with any other department, agency or entity on the prevention, evaluation, care, treatment and habilitation for persons affected by [mental retardation or] **intellectual disabilities and** developmental disabilities;

(2) Study and review current prevention, evaluation, care, treatment and rehabilitation technologies and recommend appropriate preparation, training, retraining and distribution of manpower and resources in the provision of services to [mentally retarded or developmentally disabled] persons **with an intellectual disability or a developmental disability** through private and public residential facilities, day programs and other specialized services;

(3) Recommend what specific methods, means and procedures should be adopted to improve and upgrade the department's [mental retardation and] **intellectual disabilities and** developmental disabilities service delivery system for citizens of this state;

(4) Participate in developing and disseminating criteria and standards to qualify mental retardation or developmental disability residential facilities, day programs and other specialized services in this state for funding or licensing, or both, by the department.

**633.029. DEFINITION TO DETERMINE STATUS OF ELIGIBILITY.** — All persons determined eligible for services provided by the division of [mental retardation and] developmental disabilities prior to January 1, 1991, shall be eligible for services on the basis of their earlier determination of eligibility without regard to their eligibility status under the definition of developmental disability contained in section 630.005.

**633.030. DEPARTMENT TO DEVELOP STATE PLAN, CONTENTS.** — 1. The department shall prepare a state plan to secure coordinated [mental retardation and] **intellectual disabilities and** developmental disabilities habilitation services accessible to persons in need of them in defined geographic areas, which plan shall be reviewed and revised annually.

2. The state plan shall include, but not be limited to, the following:

(1) A needs-assessment of the state to determine underserved, unserved and inappropriately served populations and areas;

(2) Statements of short-term and long-term goals for meeting the needs of currently served, underserved, unserved or inappropriately served populations and areas of the state;

(3) An inventory of existing private and public residential facilities, day programs and other service providers offering [mental retardation or] **intellectual disability or** developmental disability evaluation and habilitation services;

(4) Evaluations of the effects of habilitation programs;

(5) Descriptions of the following:

- (a) Methods for assuring active consumer-oriented citizen participation throughout the system;
  - (b) Strategies and procedures for encouraging, coordinating and integrating community-based services, wherever practicable, to avoid duplication by private, not-for-profit and public state and community-based providers of services;
  - (c) Methods for monitoring the quality of evaluation and habilitation services funded by the state;
  - (d) Rules which set standards for construction, staffing, operations and programs, as appropriate, for any public or private entity to meet for receiving state licensing, certification or funding; and
  - (e) Plans for addressing the particular [mental retardation and] **intellectual disability** or developmental disability service needs of each region, including special strategies for rural and urban unserved, underserved or inappropriately served populations in areas of the state.
3. In preparing the state plan, the department shall take into consideration its regional plans.

**633.045. DUTIES OF REGIONAL ADVISORY COUNCILS — PLANS.** — 1. Any regional advisory councils established under section 633.040 shall participate in the preparation of regional plans and annually review, advise on and recommend them before they are transmitted to the state advisory council and the division director. The plans shall include at least the following:

- (1) An inventory of existing residential facilities, day programs and specialized services for [the mentally retarded and developmentally disabled] **persons with an intellectual disability or a developmental disability**;
- (2) An assessment of needs, including any special target populations, of unserved, underserved or inappropriately served persons;
- (3) A statement of specific goals for the region.

2. Any staff of such regional advisory councils shall be provided only from funds appropriated specifically for that purpose. This subsection shall become effective July 1, 1981.

**633.050. REGIONAL COUNCILS TO REVIEW, ADVISE AND RECOMMEND — DUTIES.** — 1. In addition to such other advisory functions as may be agreed upon with the division, the regional advisory councils shall review and advise on programs and policies of the regional centers. The councils shall review, advise on, and recommend regional program budgets and shall report to the division director their findings as to their conformity with the regional plans before they are transmitted to the department to be considered for inclusion in the department budget request.

2. The regional councils may advise the department, the division and the regional centers on methods of operation and service delivery which will assure comprehensive services with the minimum amount of duplication, fragmentation and unnecessary expenditures. In making such proposals, the councils shall consider the most appropriate use of existing agencies and professional personnel providing residential facilities, day programs and other specialized services for [the mentally retarded and developmentally disabled] **persons with an intellectual disability or developmental disability** in their regions.

3. The duties of the regional advisory councils shall include:

- (1) Determining the disbursement of the cash stipend as established in section 633.180 and the family support loan as established in section 633.185;
  - (2) Providing direction and assistance to the regional center in the development of a family support plan based upon the needs in the region;
  - (3) Approval of the regional family support plan;
  - (4) Monitoring the implementation of the family support plan;
  - (5) Providing an annual written report to the department of mental health regarding the activities of the family support council.
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**633.110. WHAT SERVICES MAY BE PROVIDED — CONSENT REQUIRED, WHEN.** — 1. Any person suspected to [be mentally retarded or developmentally disabled] **have an intellectual disability or developmental disability** shall be eligible for initial diagnostic and counseling services through the regional centers.

2. If it is determined by a regional center through a comprehensive evaluation that a person [is mentally retarded or developmentally disabled] **has an intellectual disability or a developmental disability** so as to require the provision of services, and if such person, such person's parent, if the person is a minor, or legal guardian, requests that he be registered as a client of a regional center, the regional center shall, within the limits of available resources, secure a comprehensive program of any necessary services for such person. Such services may include, but need not be limited to, the following:

- (1) Diagnosis and evaluation;
- (2) Counseling;
- (3) Respite care;
- (4) Recreation;
- (5) Habilitation;
- (6) Training;
- (7) Vocational habilitation;
- (8) Residential care;
- (9) Homemaker services;
- (10) Developmental day care;
- (11) Sheltered workshops;
- (12) Referral to appropriate services;
- (13) Placement;
- (14) Transportation.

3. In securing the comprehensive program of services, the regional centers shall involve the client, his family or his legal guardian in decisions affecting his care, habilitation, placement or referral. Nothing in this chapter shall be construed as authorizing the care, treatment, habilitation, referral or placement of any [mentally retarded or developmentally disabled] person **with an intellectual disability or developmental disability** to any residential facility, day program or other specialized service without the written consent of the client, his parent, if he is a minor, or his legal guardian, unless such care, treatment, habilitation, referral, or placement is authorized pursuant to an order of the court under the provisions of chapter 475.

**633.115. ENTITIES TO BE USED BY REGIONAL CENTERS.** — The regional center shall secure services for its clients in the least restrictive environment consistent with individualized habilitation plans. As a result of its comprehensive evaluation, the regional center shall utilize the following entities to secure services:

- (1) Agencies serving persons not diagnosed [as mentally retarded or developmentally disabled] **with an intellectual disability or developmental disability** in which the client would be eligible to receive available services or in which the services could be made available to the client through the purchase of assistive or supportive services;
- (2) Agencies serving [mentally retarded or developmentally disabled] persons **with an intellectual disability or developmental disability** in which the client would be eligible to receive available services or in which services could be made available to the client through the purchase of assistive or supportive services;
- (3) The regional center on a day-program basis;
- (4) The regional center for short-term residential services, not to exceed six months, unless expressly authorized for a longer period by the division director;

(5) A residential facility licensed through the department placement program, but not operated by the department;

(6) A [mental retardation] **developmental disability** facility operated by the department for clients who are [developmentally disabled or mentally retarded] **persons with an intellectual disability or developmental disability**.

**633.120. REFERRAL FOR ADMISSION TO FACILITY, WHEN — ADMISSION OR REJECTION, APPEAL — CONSENT.** — 1. A regional center may refer a client for admission to a [mental retardation] **developmental disability** facility only if determined by a comprehensive evaluation that:

- (1) The person has a developmental disability;
- (2) Protective services are required to guarantee the health, safety or mental well-being of the person;
- (3) Placement in a [mental retardation] **developmental disability** facility is in the best interests of the person; and
- (4) All other less restrictive services, including but not limited to family support and supported living, have been explored and found inadequate to prevent placement in a [mental retardation] **developmental disability** facility.

2. The regional center shall forward its comprehensive evaluation containing the determination under subsection 1 of this section and such other records as are necessary to enable the [mental retardation] **developmental disability** facility to determine whether to accept or reject the referral.

3. The head of a private [mental retardation] **developmental disability** facility may, and the head of a department [mental retardation] **developmental disability** facility shall, admit the person if, as a result of reviewing the evaluation, the head of the [mental retardation] **developmental disability** facility determines that the client is appropriate for admission as a resident and suitable accommodations are available. If the head of a department [mental retardation] **developmental disability** facility rejects the referral, the regional center may appeal the rejection to the division director. After consulting with the head of the referring regional center and the head of the department [mental retardation] **developmental disability** facility, the division director shall determine the appropriate disposition of the client.

4. The person to be admitted, if competent, his parent or legal custodian, if he is a minor, or his guardian, as authorized by a court, shall consent to the admission unless otherwise ordered by a court.

5. The head of a [mental retardation] **developmental disability** facility shall have an individualized habilitation plan for each resident within thirty days of the resident's admission. Such plan shall include a statement regarding the resident's anticipated length of stay in the facility and the feasibility of least restrictive alternatives.

6. If procedures are initiated under chapter 475 for the appointment of a guardian for a resident of a department [mental retardation] **developmental disability** facility, the referral procedure under this section shall not apply.

**633.125. DISCHARGE FROM FACILITY, WHEN — MAY BE DENIED, PROCEDURE THEREAFTER — REFERRAL TO REGIONAL CENTER FOR PLACEMENT, WHEN.** — 1. A resident admitted to a [mental retardation] **developmental disability** facility pursuant to section 633.120 shall be discharged immediately when the person who applied for his admission requests the release orally, in writing or otherwise from the head of the [mental retardation] **developmental disability** facility; except, that if the head of the [mental retardation] **developmental disability** facility regards the resident as presenting a likelihood of serious harm to himself or others, the head of the facility may initiate involuntary detention procedures pursuant to chapter 632, if



appropriate, or any individual, including the head of the facility or the mental health coordinator may initiate guardianship proceedings and, if appropriate, obtain an emergency commitment order pursuant to chapter 475.

2. A resident shall be discharged from a department [mental retardation] **developmental disability** facility if it is determined in a comprehensive evaluation or periodic review that the person is not [mentally retarded or] **intellectually disabled or developmentally disabled**, and if the resident, parent, if a minor, or guardian consents to the discharge. If consent is not obtained, the head of the facility shall initiate appeal proceedings under section 633.135, before a resident can be discharged.

3. A resident shall either be discharged from a department [mental retardation] **developmental disability** facility or shall be referred to a regional center for placement in a least restrictive environment pursuant to section 630.610, if it is determined in a comprehensive evaluation or periodic review that the following criteria exist:

(1) The resident's condition is not of such a nature that for the protection or adequate care of the resident or others the resident needs department residential habilitation or other services;

(2) The [mental retardation] **developmental disability** facility does not offer a program which best meets the resident's needs; or

(3) The [mental retardation] **developmental disability** facility does not provide the least restrictive environment feasible. A resident may not be discharged without his consent or the consent of his parent, if he is a minor, or guardian unless proceedings have been completed under section 633.135.

4. After a resident's discharge pursuant to subsection 3 of this section, the resident shall be referred to an appropriate regional center for assistance in obtaining any necessary services.

**633.130. EVALUATION OF RESIDENTS REQUIRED — DISCHARGE THEREAFTER.** — 1. At least once every one hundred eighty days, the head of each [mental retardation] **developmental disability** facility shall cause the condition and status of each resident to be reviewed and evaluated for the purpose of determining whether the resident needs further residential habilitation, placement in the least restrictive environment or discharge.

2. The head of the facility shall initiate proceedings to discharge any resident whose continued residential habilitation is no longer appropriate; except, that the head of the facility may refer the resident to the appropriate regional center for placement pursuant to section 630.610.

3. A copy of the evaluation and individualized habilitation plan shall be sent to any court having jurisdiction over the resident.

**633.135. REFUSAL OF CONSENT FOR PLACEMENT OR DISCHARGE, EFFECT — PROCEDURE — DEPARTMENT DIRECTOR TO MAKE FINAL DETERMINATION — APPEAL, PROCEDURE — BURDEN OF PROOF.** — 1. If a resident, or his parent if he is a minor, or his legal guardian refuses to consent to the proposed placement or to discharge from the facility, the head of the [mental retardation] **developmental disability** facility may petition the director of the division to determine whether the proposed placement is appropriate under sections 630.610, 630.615 and 630.620 or whether the proposed discharge is appropriate under sections 633.120, 633.125 and 633.130.

2. The division director shall refer the petition to the chairman of the state advisory council who shall appoint and convene a review panel composed of three members. At least one member of the panel shall be a parent or guardian of a resident who resides in a department [mental retardation] **developmental disability** facility. The remaining members of the panel shall be persons who are from nongovernmental organizations or groups concerned with the prevention of [mental retardation] **intellectual disability or developmental disability**, evaluation, care and habilitation of [mentally retarded] **intellectually disabled or developmentally disabled** persons

and who are familiar with services and service needs of [mentally retarded] **intellectually disabled or developmentally disabled** persons in facilities operated by the department. No member of the panel shall be an officer or employee of the department.

3. After prompt notice and hearing, the panel shall determine whether the proposed placement is appropriate under sections 630.610, 630.615 and 630.620 or whether the proposed discharge is appropriate under sections 633.120, 633.125 and 633.130. The hearing shall be electronically recorded for purposes of obtaining a transcript. The council shall forward the tape recording, recommended findings of fact, conclusions of law and decision to the director who shall enter findings of fact, conclusions of law and the final decision. Notice of the director's decision shall be sent to the resident, or his parent if he is a minor, or his guardian, by registered mail, return receipt requested. The director shall expedite this review in all respects.

4. If the resident, or his parent if he is a minor, or his guardian disagrees with the decision of the director, he may appeal the decision, within thirty days after notice of the decision is sent, to the circuit court of the county where the resident, or his parent if he is a minor, or his guardian resides. The court shall review the record, proceedings and decision of the director not only under the provisions of chapter 536, but also as to whether or not the head of the facility sustained his burden of proof that the proposed placement is appropriate under sections 630.110, 630.115 and 630.120, or the proposed discharge is appropriate under sections 633.120, 633.125 and 633.130. The court shall expedite this review in all respects. Notwithstanding the provisions of section 536.140, a court may, for good cause shown, hear and consider additional competent and material evidence.

5. Any resident of a [mental retardation] **developmental disability** facility who is age eighteen or older and who does not have a legal guardian shall not be discharged unless probate division of the circuit court approval is obtained to confirm that the resident is not in need of the care, treatment or programs now being received in the [mental retardation] **developmental disability** facility.

6. The notice and procedure for the hearing by the panel shall be in accordance with chapter 536.

7. In all proceedings either before the panel or before the circuit court, the burden of proof shall be upon the head of the facility to demonstrate by preponderance of evidence that the proposed placement is appropriate under the criteria set forth in sections 630.610, 630.615, and 630.120, or that the proposed discharge is appropriate under the criteria set forth in sections 633.120, 633.125 and 633.130.

8. Pending a convening of the hearing panel and the final decision of the director or the court, if the director's decision is appealed, the department shall not place or discharge the resident from a facility except that the department may temporarily transfer such resident in the case of a medical emergency.

9. There shall be no disciplinary action against any state employee who in good faith testifies or otherwise provides information or evidence in regard to a proposed placement or discharge.

**633.140. RETURN OF ABSENTEE, PROCEDURE.** — 1. If any resident leaves a [mental retardation] **developmental disability** facility without authorization, the sheriff of the county where the resident is found shall apprehend and return him to the center if requested to do so by the head of the facility.

2. The head of the facility may request the return of an absent resident pursuant to subsection 1 of this section only when one of the following circumstances exists:

- (1) The resident is a minor whose admission was applied for by his parent or legal custodian, and such parent or guardian has not requested the resident's release;
- (2) The resident is a minor under the jurisdiction of the juvenile court;
- (3) The resident has been declared legally incapacitated and his guardian has not requested his release; or

(4) The resident's condition is of such a nature that, for the protection of the resident or others, the head of the facility determines that the resident's return to the facility is necessary. Such determination shall be noted in the resident's records.

**633.145. TRANSFER OF PATIENT BETWEEN FACILITIES BY DEPARTMENT — NOTICE, CONSENT.** — 1. The department may transfer a resident from one department [mental retardation] **developmental disability** facility to another if the division director determines that such transfer is desirable to provide the resident improved habilitation or other services, to better insure his safety and welfare, or to locate him in closer proximity to his family and friends.

2. Transfers may only be made to a private [mental retardation] **developmental disability** facility pursuant to section 630.610.

3. Determinations by the division director pursuant to this section shall be written and noted in the resident's records. The division director shall notify the resident, his guardian or next of kin of such determination. The department shall not transfer any resident unless it receives the consent of the resident, his guardian or his parent, if the resident is a minor.

**633.150. TRANSFER OF PATIENT TO MENTAL HEALTH FACILITY BY HEAD OF DEVELOPMENTAL DISABILITY FACILITY, HOW.** — The head of a [mental retardation] **developmental disability** facility may transfer a resident to a mental health facility only under the provisions of chapter 632. The director shall order that such resident be returned to the [mental retardation] **developmental disability** facility when the resident is no longer in need of psychiatric care and treatment.

**633.155. ADMISSION FOR RESPITE CARE FOR LIMITED TIME ONLY.** — 1. The division may provide or obtain respite care for [a mentally retarded] **an intellectually disabled** or developmentally disabled person for respite care of up to twenty-one days which may be extended up to an additional twenty-one days for good cause shown. Any additional respite care beyond forty-two days within a one-year period shall be expressly approved by the director of the division.

2. Notwithstanding the provisions of section 633.120 and section 475.120, a regional center may admit [a mentally retarded] **an intellectually disabled** or developmentally disabled person who has been declared legally incapacitated for respite care without a court order authorizing the guardian of such person to obtain such care of up to twenty-one days for good cause shown.

**633.160. EMERGENCY ADMISSION MAY BE MADE, DURATION, CONDITIONS.** — If a person presents himself, or is presented, to a regional center or department [mental retardation] **developmental disability** facility and is determined to be [mentally retarded or] **intellectually disabled or** developmentally disabled and, as a result, presents an imminent likelihood of serious harm to himself or others as defined in chapter 632, the regional center or [mental retardation] **developmental disability** facility may accept the person for detention for evaluation and treatment for a period not to exceed ninety-six hours under the same procedures contained in chapter 632. The head of the regional center or [mental retardation] **developmental disability** facility may initiate guardianship proceedings to have the person detained beyond the ninety-six hours under chapter 475, or may refer the person to a mental health facility, if the person is mentally ill, for further detention under the procedures in chapter 632.

**633.180. CASH STIPEND, ELIGIBILITY, AMOUNT, PAYMENT, USE — APPLICATION.** — 1. A family with an annual income of sixty thousand dollars or less which has a child with a developmental disability residing in the family home shall be eligible to apply for a cash stipend from the division of [mental retardation and] developmental disabilities in an amount to be determined by the regional advisory council. Such cash stipend amount shall not exceed the

maximum monthly federal Supplemental Security Income payment for an individual with a developmental disability who resides alone. Such stipend shall be paid on a monthly basis and shall be considered a benefit and not income to the family. The stipend shall be used to purchase goods and services for the benefit of the family member with a developmental disability. Such goods and services may include, but are not limited to:

- (1) Respite care;
- (2) Personal and attendant care;
- (3) Architectural and vehicular modifications;
- (4) Health- and mental health-related costs not otherwise covered;
- (5) Equipment and supplies;
- (6) Specialized nutrition and clothing;
- (7) Homemaker services;
- (8) Transportation;
- (9) Integrated community activities;
- (10) Training and technical assistance; and
- (11) Individual, family and group counseling.

2. Application for such stipend shall be made to the appropriate regional center. The regional center shall determine the eligibility of the individual to receive services from the division and the division shall forward the application to the regional advisory council to determine the amount of the stipend which may be approved by the council.

3. The family support program shall be funded by moneys appropriated by the general assembly; however, the family support program shall not supplant other programs funded through the division of [mental retardation and] developmental disabilities.

**633.185. FAMILY SUPPORT LOAN PROGRAM — INTEREST RATE — AMOUNT — APPLICATION — FAMILY SUPPORT LOAN PROGRAM FUND CREATED.** — 1. The division of [mental retardation and] developmental disabilities, subject to appropriation by the general assembly, is authorized to implement and administer, as part of the family support program, a family support loan program, which shall provide a family with an annual income of sixty thousand dollars or less which has an individual with a developmental disability residing in the home, with low-interest, short-term loans to purchase goods and services for the family member with a developmental disability.

2. Interest rates on loans made pursuant to the provisions of this section shall be no more than one percent above the prime interest rate as determined by the federal reserve system on the date the loan is approved. Loans may be for a maximum period of sixty months and the outstanding loan amount to any family may be no more than ten thousand dollars.

3. Applications for loans shall be made to the appropriate regional center. The regional center shall determine the eligibility of the individual to receive services from the division and the division shall forward the application to the regional advisory council to determine the amount of the loan which may be approved by the council.

4. There is hereby created in the state treasury for use by the department of mental health a fund to be known as the "Family Support Loan Program Fund". Moneys deposited in the fund shall be appropriated to the director of the department of mental health to be used for loans pursuant to this section. The fund shall consist of moneys appropriated by the general assembly for starting the fund and money otherwise deposited according to law. Any unexpended balance in the fund at the end of any biennium, not to exceed twice the annual loans made pursuant to this act in the previous fiscal year, is exempt from the provisions of section 33.080 relating to the transfer of unexpended balances to the ordinary revenue fund.

**633.190. PROMULGATION OF RULES.** — 1. The division of [mental retardation and] developmental disabilities, in cooperation with the Missouri planning council for developmental

disabilities, shall adopt policies and procedures and, when necessary, shall promulgate rules and regulations regarding:

- (1) Program guidelines and specifications;
- (2) Additional duties of the regional advisory councils;
- (3) Annual evaluation of services provided by each regional center, including an assessment of consumer satisfaction;
- (4) Coordination of the family support program and the use of its funds throughout the state and within each region, with other publicly funded programs, including Medicaid;
- (5) Methodology for allocating resources to families with the funds available;
- (6) Resolution of grievances filed by families pertaining to actions of the family support program;
- (7) Methodology for outreach and education.

2. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

**633.210. OFFICE OF AUTISM SERVICES ESTABLISHED, DUTIES — AUTISM SPECTRUM DISORDER DEFINED.** — 1. There is hereby established in the department of mental health within the division of [mental retardation and] developmental disabilities, an "Office of Autism Services". The office of autism services, under the supervision of the director of the division of [mental retardation and] developmental disabilities, shall provide leadership in program development for children and adults with autism spectrum disorders, to include establishment of program standards and coordination of program capacity.

2. For purposes of this section, the term "autism spectrum disorder" shall be defined as in standard diagnostic criteria for pervasive developmental disorder, to include: autistic disorder; Asperger's syndrome; pervasive developmental disorder-not otherwise specified; childhood disintegrative disorder; and Rett's syndrome.

**633.300. GROUP HOMES AND FACILITIES SUBJECT TO FEDERAL AND STATE LAW — WORKERS SUBJECT TO TRAINING REQUIREMENTS — RULEMAKING AUTHORITY.** — 1. All group homes and [mental retardation] **developmental disability** facilities as defined in section 633.005 shall be subject to all applicable federal and state laws, regulations, and monitoring, including but not limited to sections 630.705 to 630.805.

2. All mental health workers, as defined in subdivision (8) of section 210.900, shall be subject to the same training requirements established for state mental health workers with comparable positions in public group homes and mental health facilities. Such required training shall be paid for by the employer.

3. Group homes and [mental retardation] **developmental disability** facilities shall be subject to the same medical errors reporting requirements of other mental health facilities and group homes.

4. The department shall promulgate rules or amend existing rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

**633.303. TERMINATION OF WORKERS ON DISQUALIFICATION REGISTRY.** — Any employee, including supervisory personnel, of a group home or [mental retardation] **developmental disability** facility who has been placed on the disqualification registry pursuant

to section 630.170 shall be terminated. Such requirements shall be specified in contracts between the department and providers pursuant to this section.

**633.309. NO TRANSFER TO HOMES OR FACILITIES WITH NONCOMPLIANCE NOTICES.** —

The department of mental health shall not transfer any person to any group home or [mental retardation] **developmental disability** facility that has received a notice of noncompliance, until there is an approved plan of correction pursuant to sections 630.745 and 630.750.

Approved July 12, 2011

HB 661 [SCS HB 661]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Changes the laws regarding debt adjusters**

AN ACT to repeal sections 425.010, 425.020, 425.025, 425.027, and 425.040, RSMo, and to enact in lieu thereof six new sections relating to debt adjusters, with an existing penalty provision.

**SECTION**

- A. Enacting clause.
- 425.010. Definitions.
- 425.020. Debt adjusting — penalty.
- 425.025. Debt management plan or debt settlement plan may be administered free of charge.
- 425.027. Surety bond for debt adjusters required, amount.
- 425.040. Who not to be considered debt adjusters.
- 425.043. Required disclosures — misrepresentations and payment prohibited — funds held, requirements.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 425.010, 425.020, 425.025, 425.027, and 425.040, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 425.010, 425.020, 425.025, 425.027, 425.040, and 425.043, to read as follows:

**425.010. DEFINITIONS.** — As used in [this chapter] **sections 425.010 to 425.043**, the following terms mean:

(1) "Debt adjuster", a person who [acts] **provides** or offers to [act for a consideration as an intermediary between a debtor and his creditors for the purpose of settling, compounding, or in any wise altering the terms of payment of any debts of the debtor; and to that end the person receives money or other property from the debtor, or on behalf of the debtor, for payment to the debtor's credit by the person, or distribution among, the creditors by the person. This definition shall only apply to a person who collects funds from a debtor and delivers such funds to the debtor's creditors] **provide debt relief services for a consideration;**

(2) "Debt management plan" or "DMP", a written agreement or contract between a debt adjuster and a debtor whereby the debt adjuster [agrees to], **in return for payment by the debtor of no more than reasonable consideration, will provide [its] debt relief services [as such to the debtor in return for payment by the debtor of no more than reasonable consideration] that contemplate that creditors will reduce finance charges or fees for late payment, default, or delinquency;**

- (3) "Debtor", an individual or individuals jointly and severally or jointly or severally indebted;
- (4) **"Debt relief services", any program or service represented, directly or by implication, to renegotiate, settle, or in any way alter the terms of payment or other terms of the debt between a debtor and one or more unsecured creditors or debt collectors, including, but not limited to, a reduction in the balance, interest rate, or fees owed by a person to an unsecured creditor or debt collector;**
- (5) **"Debt settlement plan" or "DSP", a written agreement or contract between a debt adjuster and a debtor whereby the debt adjuster, in return for payment by the debtor of consideration, will provide debt relief services that contemplate that creditors will settle debts for less than the principal amount of the debt;**
- (6) "Reasonable consideration", a fee [or contribution] to cover the cost of administering a debt management plan, not to exceed:
  - (a) Fifty dollars for an initial or set-up fee or charge for establishing a DMP; and
  - (b) The greater of thirty-five dollars per month or eight percent of the amount distributed monthly to creditors under such DMP.

**425.020. DEBT ADJUSTING — PENALTY.** — Any person who acts or offers to act as a debt adjuster in this state other than under a debt management plan **or debt settlement plan** is guilty of a misdemeanor and upon conviction shall be punished as provided by law.

**425.025. DEBT MANAGEMENT PLAN OR DEBT SETTLEMENT PLAN MAY BE ADMINISTERED FREE OF CHARGE.** — Nothing in [this chapter] **sections 425.010 to 425.043** shall be construed to prevent any individual or organization from administering a debt management plan **or debt settlement plan** free of charge.

**425.027. SURETY BOND FOR DEBT ADJUSTERS REQUIRED, AMOUNT.** — [A debt adjuster shall provide a blanket bond in the amount of one hundred thousand dollars in favor of the state of Missouri and a copy of the bond shall be filed with the director of the division of finance.] **Each initial license application shall be accompanied by a surety bond in the principal sum in accordance with the following categories:**

- (1) **Fifty thousand dollars if the applicant declares that the operation will handle no consumer monies; or**
- (2) **One hundred thousand dollars otherwise.**

The bond shall be for the benefit of any debtor who is damaged by the debt adjuster's breach of the debt management plan **or debt settlement plan** or the debt adjuster's failure to properly administer debtor funds collected or disbursed under the debt management plan **or debt settlement plan**. The director of the division of finance may investigate any debtor complaint and make claim on a bond for the benefit of a debtor or release the bond to a debtor to make a claim.

**425.040. WHO NOT TO BE CONSIDERED DEBT ADJUSTERS.** — The following persons shall not be considered debt adjusters for the purposes of [this chapter] **sections 425.010 to 425.043:**

- (1) Any attorney at law of this state;
- (2) Any person who is a regular, full-time employee of a debtor, and who acts as an adjuster of his employer's debts;
- (3) Any person acting pursuant to any order or judgment of court, or pursuant to authority conferred by any law of this state or of the United States;
- (4) Any person who is a creditor of the debtor, or an agent of one or more creditors of the debtor, and whose services in adjusting the debtor's debts are rendered without cost to the debtor; and

(5) Any person who, at the request of a debtor, arranges for or makes a loan to the debtor, and who, at the authorization of the debtor, acts as an adjuster of the debtor's debts in the disbursement of the proceeds of the loan, without compensation for the services rendered [in adjusting the debts] **in providing debt relief services.**

**425.043. REQUIRED DISCLOSURES — MISREPRESENTATIONS AND PAYMENT PROHIBITED — FUNDS HELD, REQUIREMENTS. — 1.** Before a debtor consents to pay for goods or services offered, debt adjusters shall disclose truthfully, in a clear and conspicuous manner, the following material information:

(1) The amount of time necessary to achieve the represented results, and the extent that the debt relief service may include a settlement offer to any of the debtor's creditors or debt collectors, the time by which the debt adjuster will make a bona fide settlement offer to each of them;

(2) To the extent that the debt relief service may include a settlement offer to any of the debtor's creditors or debt collectors, the amount of money or the percentage of each outstanding debt that the debtor shall accumulate before the debt adjuster will make a bona fide settlement offer to each of them;

(3) To the extent that any aspect of the debt relief service relies upon or results in the debtor's failure to make timely payments to creditors or debt collectors, that the use of the debt relief service will likely adversely affect the debtor's creditworthiness, may result in the debtor being subject to collection actions or sued by creditors or debt collectors, and may increase the amount of money the debtor owes due to the accrual of fees and interest; and

(4) To the extent that the debt adjuster requests or requires the debtor to place funds in an account at an insured financial institution, that the debtor owns the funds held in the account, the debtor may withdraw from the debt relief service at any time without penalty, and, if the debtor withdraws, the debtor shall receive all funds in the account, other than funds earned by the debt adjuster, within seven business days of the debtor's request.

2. A debt adjuster shall not misrepresent, directly or by implication, any material aspect of any debt relief service, including, but not limited to, the amount of money or the percentage of the debt amount that a debtor may save by using such service; the amount of time necessary to achieve the represented results; the amount of money or the percentage of each outstanding debt that the debtor shall accumulate before the debt adjuster will initiate attempts with the debtor's creditors or debt collectors or make a bona fide offer to negotiate, settle, or modify the terms of the debtor's debt; the effect of the service on the debtor's creditworthiness; the effect of the service on collection efforts of the debtor's creditors or debt collectors; the percentage or number of debtors who attain the represented results; and whether a debt relief service is offered or provided by a nonprofit entity.

3. A debt adjuster shall not receive payment of any fee or consideration for any debt relief service until and unless:

(1) The debt adjuster has renegotiated, settled, reduced, or otherwise altered the terms of at least one debt under a debt management plan or debt settlement plan;

(2) The debtor has made at least one payment under such debt management plan or debt settlement plan; and

(3) The fee or consideration for settling each individual debt enrolled in a debt settlement plan shall either:

(a) Bear the same proportional relationship to the total fee for settling the entire debt balance as the individual debt amount bears to the entire debt amount. The individual debt

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amount and the entire debt amount are amounts owed at the time the debt was enrolled on the debt relief service; or

(b) Be a percentage of the amount saved as a result of the settlement. The percentage charged shall not change from one individual debt to another. The amount saved is the difference between the amount owed at the time the debt was enrolled in the debt relief service and the amount actually paid to satisfy the debt.

4. Nothing in this section prohibits requesting or requiring the debtor to place funds in an account to be used for the debt adjuster's fees for payments to creditors or debt collectors in connection with the renegotiation, settlement, reduction, or other alteration of the terms of payment or other terms of debt, provided that:

- (1) The funds are held in an account at an insured financial institution;
- (2) The debtor owns the funds held in the account and is paid accrued interest on the account, if any;
- (3) If the debt adjuster does not administer the account, the entity administering the account is not owned or controlled by, or in any way affiliated with, the debt adjuster;
- (4) The entity administering the account does not give or accept any money or other compensation in exchange for referrals of business by the debt adjuster; and
- (5) The debtor may withdraw from the debt relief service at any time without penalty, and shall receive all funds in the account, other than funds earned by the debt adjuster in compliance with subdivision (3) of subsection 3 of this section, within seven business days of the debtor's request.

Approved July 8, 2011

HB 664 [SS SCS HCS HB 664]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Changes the laws regarding fire fighter benefits for an infectious disease incurred in the line of duty and the Firemen's Retirement System of St. Louis**

AN ACT to repeal sections 87.005, 87.006, 87.205, and 87.207, RSMo, and to enact in lieu thereof five new sections relating to firemen's retirement.

**SECTION**

- A. Enacting clause.
- 87.005. Firemen, certain diseases presumed incurred in line of duty — conditions — infectious disease defined.
- 87.006. Firemen, certain diseases presumed incurred in line of duty — persons covered — disability from cancer, presumption suffered in line of duty, when — infectious disease defined.
- 87.127. Qualified government plan, retirement plan intended to be.
- 87.205. Accidental disability retirement allowance.
- 87.207. Cost-of-living increase, how determined.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 87.005, 87.006, 87.205, and 87.207, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 87.005, 87.006, 87.127, 87.205, and 87.207, to read as follows:

**87.005. FIREMEN, CERTAIN DISEASES PRESUMED INCURRED IN LINE OF DUTY — CONDITIONS—INFECTIOUSDISEASEDEFINED.** — 1. Notwithstanding the provisions of any law

to the contrary, after five years' service, any condition of impairment of health caused by any **infectious disease**, disease of the lungs or respiratory tract, hypertension, or disease of the heart resulting in total or partial disability or death to a uniformed member of a paid fire department, who successfully passed a physical examination within five years prior to the time a claim is made for such disability or death, which examination failed to reveal any evidence of such condition, shall be presumed to have been suffered in line of duty, unless the contrary be shown by competent evidence. **In order to receive the presumption that an infectious disease was contracted in the line of duty, the member shall submit to an annual physical examination, at which a blood test is administered.**

2. This section shall apply only to the provisions of chapter 87, RSMo 1959.

3. **As used in this section, the term "infectious disease" means the human immunodeficiency virus, acquired immunodeficiency syndrome, tuberculosis, hepatitis A, hepatitis B, hepatitis C, hepatitis D, diphtheria, meningococcal meningitis, methicillin-resistant staphylococcus aureus, hemorrhagic fever, plague, rabies, and severe acute respiratory syndrome.**

**87.006. FIREMEN, CERTAIN DISEASES PRESUMED INCURRED IN LINE OF DUTY — PERSONS COVERED — DISABILITY FROM CANCER, PRESUMPTION SUFFERED IN LINE OF DUTY, WHEN — INFECTIOUS DISEASE DEFINED. —** 1. Notwithstanding the provisions of any law to the contrary, and only for the purpose of computing retirement benefits provided by an established retirement plan, after five years' service, any condition of impairment of health caused by any **infectious disease**, disease of the lungs or respiratory tract, hypotension, hypertension, or disease of the heart resulting in total or partial disability or death to a uniformed member of a paid fire department, who successfully passed a physical examination within five years prior to the time a claim is made for such disability or death, which examination failed to reveal any evidence of such condition, shall be presumed to have been suffered in the line of duty, unless the contrary be shown by competent evidence. **In order to receive the presumption that an infectious disease was contracted in the line of duty, the member shall submit to an annual physical examination, at which a blood test is administered.**

2. Any condition of cancer affecting the skin or the central nervous, lymphatic, digestive, hematological, urinary, skeletal, oral, breast, testicular, genitourinary, liver or prostate systems, as well as any condition of cancer which may result from exposure to heat or radiation or to a known or suspected carcinogen as determined by the International Agency for Research on Cancer, which results in the total or partial disability or death to a uniformed member of a paid fire department who successfully passed a physical examination within five years prior to the time a claim is made for disability or death, which examination failed to reveal any evidence of such condition, shall be presumed to have been suffered in the line of duty unless the contrary be shown by competent evidence and it can be proven to a reasonable degree of medical certainty that the condition did not result nor was contributed to by the voluntary use of tobacco.

3. This section shall apply to paid members of all fire departments of all counties, cities, towns, fire districts, and other governmental units.

4. **As used in this section, the term "infectious disease" means the human immunodeficiency virus, acquired immunodeficiency syndrome, tuberculosis, hepatitis A, hepatitis B, hepatitis C, hepatitis D, diphtheria, meningococcal meningitis, methicillin-resistant staphylococcus aureus, hemorrhagic fever, plague, rabies, and severe acute respiratory syndrome.**

**87.127. QUALIFIED GOVERNMENT PLAN, RETIREMENT PLAN INTENDED TO BE. — A retirement plan under sections 87.120 to 87.370 is intended to be a qualified governmental plan under the provisions of applicable federal law. The benefits and conditions of the plan**

shall be interpreted and the system shall be operated to ensure that the system meets the federal qualification requirements.

**87.205. ACCIDENTAL DISABILITY RETIREMENT ALLOWANCE.** — 1. Upon retirement for accidental disability **before August 28, 2011**, a member shall receive seventy-five percent of the pay then provided by law for the highest step in the range of salary for the title or rank held by such member at the time of such retirement unless the member is permanently and totally incapacitated from performing any work, occupation or vocation of any kind whatsoever and is continuously confined to the member's home except for visits to obtain medical treatment, in which event the member may receive, in the discretion of the board of trustees, a retirement allowance in an amount not exceeding the member's rate of compensation as a firefighter in effect as of the date the allowance begins.

2. Anyone who has retired pursuant to the provisions of section 87.170 and has been reinstated pursuant to subsection 2 of section 87.130 who subsequently becomes disabled, as provided in section 87.200, shall receive a total benefit which is the higher of either the disability pension or the service pension.

3. Upon retirement for accidental disability on or after August 28, 2011, based on conditions of the heart, lungs, or cancer or based on permanent and total disability which will prevent the member from obtaining employment elsewhere, as determined by the board of trustees based on medical evidence presented by the retirement system's physicians, a member shall receive, regardless of his or her number of years of creditable service, seventy-five percent of the earnable compensation then provided for the step in the range of salary for the title or rank held by such member at the time of such retirement.

4. Except as provided in subsection 3 of this section, upon retirement for accidental disability on or after August 28, 2011, a member shall receive a base pension equal to twenty-five percent of the member's earnable compensation then provided for the step in the range of salary for the title or rank held by such member at the time of such retirement.

5. Except as provided in subsection 3 of this section, upon retirement for accidental disability on or after August 28, 2011, the member may elect to receive an education allowance in an amount not to exceed the tuition for a state resident at the University of Missouri-St. Louis. The accidentally disabled member shall enroll in a college, university, community college, or vocational or technical school at the first opportunity after the accidentally disabled member was retired and shall receive such educational allowance in the form of reimbursement upon proof of payment to such institution. The education allowance described in this subsection shall cease when the accidentally disabled member ceases to be a full-time student, fails to provide proof of achievement of a grade point average of two on a four-point scale or the equivalent on another scale for each academic term, or if the accidentally disabled member is restored to active service as a firefighter, but in no event shall such education allowance be available for more than five years after the member is retired under section 87.200.

6. Except as provided in subsection 3 of this section, upon retirement for accidental disability on or after August 28, 2011, in addition to the base pension provided for in subsection 4 of this section and the education allowance provided for in subsection 5 of this section, members with twenty-five years or less of creditable service shall receive an additional accidental retirement pension equal to two and three-fourths percent of the member's earnable compensation then provided for the step in the range of salary for the title or rank held by such member at the time of retirement for each year of creditable service equal to or greater than ten years but not more than twenty-five years.

7. Except as provided in subsection 3 of this section, upon retirement for accidental disability on or after August 28, 2011, in addition to the base pension provided for in

subsection 4 of this section and the additional accidental retirement pension provided for in subsection 6 of this section, for members with twenty-five years or less of creditable service, then during such time that the disabled member is a full-time student in a college, university, community college, or vocational or technical school and is receiving the educational allowance provided for in subsection 5 of this section, such member shall also receive a supplemental disability retirement pension in the amount necessary so that his or her total accidental disability retirement pension, excluding the education allowance, shall be equal to one hundred percent of the earnable compensation then provided for the step in the range of salary for the title or rank held by such member at the time of such retirement. In no event shall such supplemental accidental disability pension be paid for a period more than five years after the member is retired under section 87.200.

8. Except as provided in subsection 3 of this section, upon retirement for accidental disability on or after August 28, 2011, in addition to the base pension provided for in subsection 4 of this section and the education allowance provided for in subsection 5 of this section, for members with more than twenty-five years of creditable service, such member shall also receive an additional pension equal to fifty percent of the member's earnable compensation then provided for the step in the range of salary for the title or rank held by such member at the time of such retirement.

9. Notwithstanding any other provisions in this section, upon retirement for accidental disability, other than as provided in subsection 3 of this section, on or after August 28, 2011, a member with more than twenty years of creditable service but not more than twenty-five years of creditable service may waive the right to receive the education allowance provided for in subsection 5 of this section, the right to additional pension retirement allowance provided for in subsection 6 of this section, and the right to receive the supplemental disability retirement pension provided for in subsection 7 of this section and may elect to receive instead in addition to the accidental disability retirement base pension as provided for in subsection 4 of this section an additional pension from the date of such member's retirement equal to forty percent of the member's earnable compensation then provided for the step in the range of salary for the title or rank held by such member at the time of such retirement. Any such election shall be made prior to such member's receipt of his or her first accidental disability pension payment.

**87.207. COST-OF-LIVING INCREASE, HOW DETERMINED.** — The following allowances due under the provisions of sections 87.120 to 87.371 of any member who retired from service shall be increased annually, as approved by the board of trustees beginning with the first increase in the October following his or her retirement and subsequent increases in each October thereafter, at the rates designated:

- (1) With a retirement service allowance or ordinary disability allowance:
  - (a) One and one-half percent per year, compounded each year, up to age sixty for those retiring with twenty to twenty-four years of service,
  - (b) Two and one-fourth percent per year, compounded each year, up to age sixty for those retiring with twenty-five to twenty-nine years of service,
  - (c) Three percent per year, compounded each year, up to age sixty for those retiring with thirty or more years of service,
  - (d) After age sixty, five percent per year for five years;
- (2) With an accidental disability allowance, three percent per year, compounded each year, up to age sixty, then five percent per year for five years. **Provided, however, for accidental disability on or after August 28, 2011, for reasons other than provided in subsection 3 of section 87.205, unless a member has more than twenty-five years of creditable service, the accidental disability allowance shall only increase at a rate of one percent per year, compounded each year, up to age sixty, then five percent per year for five years. For**

accidental disability on or after August 28, 2011, for reasons other than provided in subsection 3 of section 87.205, if a member has more than twenty-five years of creditable service, the accidental disability allowance shall only increase at a rate of two and one-fourth percent per year, compounded each year, up to age sixty, then five percent per year for five years.

Approved July 7, 2011

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HB 667 [HB 667]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Establishes two prostate cancer pilot programs to fund screening and treatment services and to provide education to men residing in the state**

AN ACT to amend chapter 191, RSMo, by adding thereto one new section relating to the prostate cancer pilot program.

**SECTION**

- A. Enacting clause.  
191.950. Prostate cancer pilot programs — definitions — eligibility — services provided — grants — rulemaking authority — sunset provision.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Chapter 191, RSMo, is amended by adding thereto one new section, to be known as section 191.950, to read as follows:

**191.950. PROSTATE CANCER PILOT PROGRAMS — DEFINITIONS — ELIGIBILITY — SERVICES PROVIDED — GRANTS — RULEMAKING AUTHORITY — SUNSET PROVISION. — 1.** As used in this section, the following terms mean:

- (1) "Department", the department of health and senior services;
- (2) "Economically challenged men", men who have a gross income up to one-hundred and fifty percent of the federal poverty level;
- (3) "Program", the prostate cancer pilot program established in this section;
- (4) "Rural area", a rural area which is in either any county of the third classification without a township form of government and with more than twenty thousand but fewer than twenty thousand one hundred inhabitants, any county of the second classification with more than nineteen thousand seven hundred but fewer than nineteen thousand eight hundred inhabitants, or any county of the third classification with a township form of government and with more than thirty-three thousand one hundred but fewer than thirty-three thousand two hundred inhabitants;
- (5) "Uninsured men", men for whom services provided by the program are not covered by private insurance, MO HealthNet or Medicare;
- (6) "Urban area", an urban area which is located in a city not within a county.

2. Subject to securing a cooperative agreement with a nonprofit entity for funding of the program, there is hereby established within the department of health and senior services two "Prostate Cancer Pilot Programs" to fund prostate cancer screening and treatment services and to provide education to men residing in this state. One prostate cancer pilot program shall be located in an urban area and one prostate cancer pilot

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program shall be located in a rural area. The department may directly contract with the Missouri Foundation for Health, or a successor entity, in the delivery of the pilot program. For purposes of this section, the contracting process of the department with these entities need not be governed by the provisions of chapter 34.

3. The program shall be open to:

(1) Uninsured men or economically challenged men who are at least fifty years old; and

(2) On the advice of a physician or at the request of the individual, uninsured men or economically challenged men who are at least thirty-five years of age but less than fifty years of age and who are at high risk for prostate cancer.

4. The program shall provide:

(1) Prostate cancer screening;

(2) Referral services, including services necessary for diagnosis;

(3) Treatment services for individuals who are diagnosed with prostate cancer after being screened; and

(4) Outreach and education activities to ensure awareness and utilization of program services by uninsured men and economically challenged men.

5. Upon appropriation, the department shall distribute grants to administer the program to:

(1) Local health departments; and

(2) Federally qualified health centers.

6. Three years from the date on which the grants were first administered under this section, the department shall report to the governor and general assembly:

(1) The number of individuals screened and treated under the program, including racial and ethnic data on the individuals who were screened and treated; and

(2) To the extent possible, any cost savings achieved by the program as a result of early detection of prostate cancer.

7. The department shall promulgate rules to establish guidelines regarding eligibility for the program and to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2011, shall be invalid and void.

8. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset six years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

Approved June 17, 2011

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HB 675 [HB 675]

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**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Requires every elected or appointed coroner, deputy coroner, and assistant to the coroner to complete the annually required educational training within six months of his or her election or appointment**

AN ACT to repeal section 58.095, RSMo, and to enact in lieu thereof one new section relating to county coroner training.

SECTION

- A. Enacting clause.  
58.095. Compensation of county coroner — training program, attendance required, when, expenses, compensation (noncharter counties).

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Section 58.095, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 58.095, to read as follows:

**58.095. COMPENSATION OF COUNTY CORONER — TRAINING PROGRAM, ATTENDANCE REQUIRED, WHEN, EXPENSES, COMPENSATION (NONCHARTER COUNTIES).** — 1. The county coroner in any county, other than in a first classification chartered county, shall receive an annual salary computed on a basis as set forth in the following schedule. The provisions of this section shall not permit or require a reduction in the amount of compensation being paid for the office of coroner on January 1, 1997:

Assessed Valuation	Salary
\$ 18,000,000 to 40,999,999	\$8,000
41,000,000 to 53,999,999	8,500
54,000,000 to 65,999,999	9,000
66,000,000 to 85,999,999	9,500
86,000,000 to 99,999,999	10,000
100,000,000 to 130,999,999	11,000
131,000,000 to 159,999,999	12,000
160,000,000 to 189,999,999	13,000
190,000,000 to 249,999,999	14,000
250,000,000 to 299,999,999	15,000
300,000,000 or more	16,000

2. One thousand dollars of the salary authorized in this section shall be payable to the coroner only if the coroner has completed at least twenty hours of classroom instruction each calendar year relating to the operations of the coroner's office when approved by a professional association of the county coroners of Missouri unless exempted from the training by the professional association. The professional association approving the program shall provide a certificate of completion to each coroner who completes the training program and shall send a list of certified coroners to the treasurer of each county. Expenses incurred for attending the training session may be reimbursed to the county coroner in the same manner as other expenses as may be appropriated for that purpose. **All elected or appointed coroners, deputy coroners, and assistants to the coroner shall complete the annual training described in this subsection within six months of election or appointment.**

3. The county coroner in any county, other than a first classification charter county, shall not, except upon two-thirds vote of all the members of the salary commission, receive an annual compensation in an amount less than the total compensation being received for the office of county

coroner in the particular county for services rendered or performed on the date the salary commission votes.

4. For the term beginning in 1997, the compensation of the coroner, in counties in which the salary commission has not voted to pay one hundred percent of the maximum allowable salary, shall be a percentage of the maximum allowable salary established by this section. The percentage applied shall be the same percentage of the maximum allowable salary received or allowed, whichever is greater, to the presiding commissioner or sheriff, whichever is greater, of that county for the year beginning January 1, 1997. In those counties in which the salary commission has voted to pay one hundred percent of the maximum allowable salary, the compensation of the coroner shall be based on the maximum allowable salary in effect at each time a coroner's term of office commences following the vote to pay one hundred percent of the maximum allowable compensation. Subsequent compensation shall be determined as provided in section 50.333.

5. Effective January 1, 1997, the county coroner in any county, other than a county of the first classification with a charter form of government, may, upon the approval of the county commission, receive additional compensation for any month during which investigations or other services are performed for three or more decedents in the same incident during such month. The additional compensation shall be an amount that when added to the regular compensation the sum shall equal the monthly compensation of the county sheriff.

Approved July 5, 2011

## HB 737 [SCS HB 737]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

### **Changes the laws regarding renewable energy in enhanced enterprise zones and the taxation of hydroelectric power generating equipment**

AN ACT to repeal sections 135.950, 135.963, and 137.010, RSMo, section 135.953 as enacted by conference committee substitute for senate committee substitute for house committee substitute for house bill no. 1965, ninety-fifth general assembly, second regular session, and section 135.953 as enacted by house committee substitute for senate committee substitute for senate bill no. 1155, ninety-second general assembly, second regular session, and to enact in lieu thereof four new sections relating to renewable energy.

#### **SECTION**

- A. Enacting clause.
- 135.950. Definitions.
- 135.953. Enhanced enterprise zone criteria — zone may be established in certain areas — additional criteria.
- 135.953. Enhanced enterprise zone criteria — zone may be established in certain areas — additional criteria.
- 135.963. Improvements exempt, when — authorizing resolution, contents — public hearing required, notice — certain property exempt from ad valorem taxes, duration — time period — property affected — assessor's duties.
- 137.010. Definitions.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 135.950, 135.963, and 137.010, RSMo, section 135.953 as enacted by conference committee substitute for senate committee substitute for house committee substitute for house bill no. 1965, ninety-fifth general assembly, second regular session, and section 135.953 as enacted by house committee substitute for senate committee substitute for senate bill no. 1155, ninety-second general assembly, second regular session, are



repealed and four new sections enacted in lieu thereof, to be known as sections 135.950, 135.953, 135.963, and 137.010, to read as follows:

**135.950. DEFINITIONS.** — The following terms, whenever used in sections 135.950 to 135.970 mean:

- (1) "Average wage", the new payroll divided by the number of new jobs;
- (2) "Blighted area", an area which, by reason of the predominance of defective or inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, retards the provision of housing accommodations or constitutes an economic or social liability or a menace to the public health, safety, morals, or welfare in its present condition and use. **The term "blighted area" shall also include any area which produces or generates or has the potential to produce or generate electrical energy from a renewable energy resource, and which, by reason of obsolescence, decadence, blight, dilapidation, deteriorating or inadequate site improvements, substandard conditions, the predominance or defective or inadequate street layout, unsanitary or unsafe conditions, improper subdivision or obsolete platting, or the existence of conditions which endanger the life or property by fire or other means, or any combination of such factors, is underutilized, unutilized, or diminishes the economic usefulness of the land, improvements, or lock and dam site within such area for the production, generation, conversion, and conveyance of electrical energy from a renewable energy resource;**
- (3) "Board", an enhanced enterprise zone board established pursuant to section 135.957;
- (4) "Commencement of commercial operations" shall be deemed to occur during the first taxable year for which the new business facility is first put into use by the taxpayer in the enhanced business enterprise in which the taxpayer intends to use the new business facility;
- (5) "County average wage", the average wages in each county as determined by the department for the most recently completed full calendar year. However, if the computed county average wage is above the statewide average wage, the statewide average wage shall be deemed the county average wage for such county for the purpose of determining eligibility. The department shall publish the county average wage for each county at least annually. Notwithstanding the provisions of this subdivision to the contrary, for any taxpayer that in conjunction with their project is relocating employees from a Missouri county with a higher county average wage, such taxpayer shall obtain the endorsement of the governing body of the community from which jobs are being relocated or the county average wage for their project shall be the county average wage for the county from which the employees are being relocated;
- (6) "Department", the department of economic development;
- (7) "Director", the director of the department of economic development;
- (8) "Employee", a person employed by the enhanced business enterprise that is scheduled to work an average of at least one thousand hours per year, and such person at all times has health insurance offered to him or her, which is partially paid for by the employer;
- (9) "Enhanced business enterprise", an industry or one of a cluster of industries that is either:
  - (a) Identified by the department as critical to the state's economic security and growth; or
  - (b) Will have an impact on industry cluster development, as identified by the governing authority in its application for designation of an enhanced enterprise zone and approved by the department; but excluding gambling establishments (NAICS industry group 7132), retail trade (NAICS sectors 44 and 45), educational services (NAICS sector 61), religious organizations (NAICS industry group 8131), public administration (NAICS sector 92), and food and drinking places (NAICS subsector 722), however, notwithstanding provisions of this section to the contrary, headquarters or administrative offices of an otherwise excluded business may qualify for benefits if the offices serve a multistate territory. In the event a national, state, or regional

headquarters operation is not the predominant activity of a project facility, the new jobs and investment of such headquarters operation is considered eligible for benefits under this section if the other requirements are satisfied. Service industries may be eligible only if a majority of its annual revenues will be derived from out of the state;

(10) "Existing business facility", any facility in this state which was employed by the taxpayer claiming the credit in the operation of an enhanced business enterprise immediately prior to an expansion, acquisition, addition, or replacement;

(11) "Facility", any building used as an enhanced business enterprise located within an enhanced enterprise zone, including the land on which the facility is located and all machinery, equipment, and other real and depreciable tangible personal property acquired for use at and located at or within such facility and used in connection with the operation of such facility;

(12) "Facility base employment", the greater of the number of employees located at the facility on the date of the notice of intent, or for the twelve-month period prior to the date of the notice of intent, the average number of employees located at the facility, or in the event the project facility has not been in operation for a full twelve-month period, the average number of employees for the number of months the facility has been in operation prior to the date of the notice of intent;

(13) "Facility base payroll", the total amount of taxable wages paid by the enhanced business enterprise to employees of the enhanced business enterprise located at the facility in the twelve months prior to the notice of intent, not including the payroll of owners of the enhanced business enterprise unless the enhanced business enterprise is participating in an employee stock ownership plan. For the purposes of calculating the benefits under this program, the amount of base payroll shall increase each year based on the consumer price index or other comparable measure, as determined by the department;

(14) "Governing authority", the body holding primary legislative authority over a county or incorporated municipality;

(15) "Megaproject", any manufacturing or assembling facility, approved by the department for construction and operation within an enhanced enterprise zone, which satisfies the following:

(a) The new capital investment is projected to exceed three hundred million dollars over a period of eight years from the date of approval by the department;

(b) The number of new jobs is projected to exceed one thousand over a period of eight years beginning on the date of approval by the department;

(c) The average wage of new jobs to be created shall exceed the county average wage;

(d) The taxpayer shall offer health insurance to all new jobs and pay at least eighty percent of such insurance premiums; and

(e) An acceptable plan of repayment, to the state, of the tax credits provided for the megaproject has been provided by the taxpayer;

(16) "NAICS", the 1997 edition of the North American Industry Classification System as prepared by the Executive Office of the President, Office of Management and Budget. Any NAICS sector, subsector, industry group or industry identified in this section shall include its corresponding classification in subsequent federal industry classification systems;

(17) "New business facility", a facility that **does not produce or generate electrical energy from a renewable energy resource and** satisfies the following requirements:

(a) Such facility is employed by the taxpayer in the operation of an enhanced business enterprise. Such facility shall not be considered a new business facility in the hands of the taxpayer if the taxpayer's only activity with respect to such facility is to lease it to another person or persons. If the taxpayer employs only a portion of such facility in the operation of an enhanced business enterprise, and leases another portion of such facility to another person or persons or does not otherwise use such other portions in the operation of an enhanced business enterprise, the portion employed by the taxpayer in the operation of an enhanced business enterprise shall be considered a new business facility, if the requirements of paragraphs (b), (c), and (d) of this subdivision are satisfied;

(b) Such facility is acquired by, or leased to, the taxpayer after December 31, 2004. A facility shall be deemed to have been acquired by, or leased to, the taxpayer after December 31, 2004, if the transfer of title to the taxpayer, the transfer of possession pursuant to a binding contract to transfer title to the taxpayer, or the commencement of the term of the lease to the taxpayer occurs after December 31, 2004;

(c) If such facility was acquired by the taxpayer from another taxpayer and such facility was employed immediately prior to the acquisition by another taxpayer in the operation of an enhanced business enterprise, the operation of the same or a substantially similar enhanced business enterprise is not continued by the taxpayer at such facility; and

(d) Such facility is not a replacement business facility, as defined in subdivision (25) of this section;

(18) "New business facility employee", an employee of the taxpayer in the operation of a new business facility during the taxable year for which the credit allowed by section 135.967 is claimed, except that truck drivers and rail and barge vehicle operators and other operators of rolling stock for hire shall not constitute new business facility employees;

(19) "New business facility investment", the value of real and depreciable tangible personal property, acquired by the taxpayer as part of the new business facility, which is used by the taxpayer in the operation of the new business facility, during the taxable year for which the credit allowed by 135.967 is claimed, except that trucks, truck-trailers, truck semitrailers, rail vehicles, barge vehicles, aircraft and other rolling stock for hire, track, switches, barges, bridges, tunnels, and rail yards and spurs shall not constitute new business facility investments. The total value of such property during such taxable year shall be:

(a) Its original cost if owned by the taxpayer; or

(b) Eight times the net annual rental rate, if leased by the taxpayer. The net annual rental rate shall be the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The new business facility investment shall be determined by dividing by twelve the sum of the total value of such property on the last business day of each calendar month of the taxable year. If the new business facility is in operation for less than an entire taxable year, the new business facility investment shall be determined by dividing the sum of the total value of such property on the last business day of each full calendar month during the portion of such taxable year during which the new business facility was in operation by the number of full calendar months during such period;

(20) "New job", the number of employees located at the facility that exceeds the facility base employment less any decrease in the number of the employees at related facilities below the related facility base employment. No job that was created prior to the date of the notice of intent shall be deemed a new job;

(21) "Notice of intent", a form developed by the department which is completed by the enhanced business enterprise and submitted to the department which states the enhanced business enterprise's intent to hire new jobs and request benefits under such program;

(22) "Related facility", a facility operated by the enhanced business enterprise or a related company in this state that is directly related to the operation of the project facility;

(23) "Related facility base employment", the greater of:

(a) The number of employees located at all related facilities on the date of the notice of intent; or

(b) For the twelve-month period prior to the date of the notice of intent, the average number of employees located at all related facilities of the enhanced business enterprise or a related company located in this state;

(24) "Related taxpayer":

(a) A corporation, partnership, trust, or association controlled by the taxpayer;

(b) An individual, corporation, partnership, trust, or association in control of the taxpayer; or

(c) A corporation, partnership, trust or association controlled by an individual, corporation, partnership, trust or association in control of the taxpayer. "Control of a corporation" shall mean ownership, directly or indirectly, of stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote, "control of a partnership or association" shall mean ownership of at least fifty percent of the capital or profits interest in such partnership or association, and "control of a trust" shall mean ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal or income of such trust; ownership shall be determined as provided in Section 318 of the Internal Revenue Code of 1986, as amended;

**(25) "Renewable energy generation zone", an area which has been found, by a resolution or ordinance adopted by the governing authority having jurisdiction of such area, to be a blighted area and which contains land, improvements, or a lock and dam site which is unutilized or underutilized for the production, generation, conversion, and conveyance of electrical energy from a renewable energy resource;**

**(26) "Renewable energy resource", shall include:**

- (a) Wind;**
- (b) Solar thermal sources or photovoltaic cells and panels;**
- (c) Dedicated crops grown for energy production;**
- (d) Cellulosic agricultural residues;**
- (e) Plant residues;**
- (f) Methane from landfills, agricultural operations, or wastewater treatment;**
- (g) Thermal depolymerization or pyrolysis for converting waste material to energy;**
- (h) Clean and untreated wood such as pallets;**
- (i) Hydroelectric power, which shall include electrical energy produced or generated by hydroelectric power generating equipment, as such term is defined in section 137.010;**
- (j) Fuel cells using hydrogen produced by one or more of the renewable resources provided in paragraphs (a) to (i) of this subdivision; or**
- (k) Any other sources of energy, not including nuclear energy, that are certified as renewable by rule by the department of natural resources;**

**(27) "Replacement business facility", a facility otherwise described in subdivision (17) of this section, hereafter referred to in this subdivision as "new facility", which replaces another facility, hereafter referred to in this subdivision as "old facility", located within the state, which the taxpayer or a related taxpayer previously operated but discontinued operating on or before the close of the first taxable year for which the credit allowed by this section is claimed. A new facility shall be deemed to replace an old facility if the following conditions are met:**

**(a) The old facility was operated by the taxpayer or a related taxpayer during the taxpayer's or related taxpayer's taxable period immediately preceding the taxable year in which commencement of commercial operations occurs at the new facility; and**

**(b) The old facility was employed by the taxpayer or a related taxpayer in the operation of an enhanced business enterprise and the taxpayer continues the operation of the same or substantially similar enhanced business enterprise at the new facility. Notwithstanding the preceding provisions of this subdivision, a facility shall not be considered a replacement business facility if the taxpayer's new business facility investment, as computed in subdivision (19) of this section, in the new facility during the tax period for which the credits allowed in section 135.967 are claimed exceed one million dollars and if the total number of employees at the new facility exceeds the total number of employees at the old facility by at least two;**

**[(26)] (28) "Same or substantially similar enhanced business enterprise", an enhanced business enterprise in which the nature of the products produced or sold, or activities conducted, are similar in character and use or are produced, sold, performed, or conducted in the same or similar manner as in another enhanced business enterprise.**

**[135.953. ENHANCED ENTERPRISE ZONE CRITERIA — ZONE MAY BE ESTABLISHED IN CERTAIN AREAS — ADDITIONAL CRITERIA. —** 1. For purposes of sections 135.950 to 135.970, an area shall meet the following criteria in order to qualify as an enhanced enterprise zone:

(1) The area shall be a blighted area, have pervasive poverty, unemployment and general distress; and

(2) At least sixty percent of the residents living in the area have incomes below ninety percent of the median income of all residents:

(a) Within the state of Missouri, according to the United States Census Bureau's American Community Survey, based on the most recent of five-year period estimate data in which the final year of the estimate ends in either zero or five or other appropriate source as approved by the director; or

(b) Within the county or city not within a county in which the area is located, according to the last decennial census or other appropriate source as approved by the director; and

(3) The resident population of the area shall be at least five hundred but not more than one hundred thousand at the time of designation as an enhanced enterprise zone if the area lies within a metropolitan statistical area, as established by the United States Census Bureau, or if the area does not lie within a metropolitan statistical area, the resident population of the area at the time of designation shall be at least five hundred but not more than forty thousand inhabitants. If the population of the jurisdiction of the governing authority does not meet the minimum population requirements set forth in this subdivision, the population of the area must be at least fifty percent of the population of the jurisdiction. However, no enhanced enterprise zone shall be created which consists of the total area within the political boundaries of a county; and

(4) The level of unemployment of persons, according to the most recent data available from the United States Bureau of Census and approved by the director, within the area is equal to or exceeds the average rate of unemployment for:

(a) The state of Missouri over the previous twelve months; or

(b) The county or city not within a county over the previous twelve months.

2. Notwithstanding the requirements of subsection 1 of this section to the contrary, an enhanced enterprise zone may be established in an area located within a county for which public and individual assistance has been requested by the governor pursuant to Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121, et seq., for an emergency proclaimed by the governor pursuant to section 44.100 due to a natural disaster of major proportions, if the area to be designated is blighted and sustained severe damage as a result of such natural disaster, as determined by the state emergency management agency. An application for designation as an enhanced enterprise zone pursuant to this subsection shall be made before the expiration of one year from the date the governor requested federal relief for the area sought to be designated.

3. Notwithstanding the requirements of subsection 1 of this section to the contrary, an enhanced enterprise zone may be designated in a county of declining population if it meets the requirements of subdivisions (1), (3) and either (2) or (4) of subsection 1 of this section. For the purposes of this subsection, a "county of declining population" is one that has lost one percent or more of its population as demonstrated by comparing the most recent decennial census population to the next most recent decennial census population for the county.

4. In addition to meeting the requirements of subsection 1, 2, or 3 of this section, an area, to qualify as an enhanced enterprise zone, shall be demonstrated by the governing authority to have either:

- (1) The potential to create sustainable jobs in a targeted industry; or
- (2) A demonstrated impact on local industry cluster development.]

**135.953. ENHANCED ENTERPRISE ZONE CRITERIA — ZONE MAY BE ESTABLISHED IN CERTAIN AREAS — ADDITIONAL CRITERIA.** — 1. For purposes of sections 135.950 to 135.970, an area shall meet the following criteria in order to qualify as an enhanced enterprise zone:

(1) The area shall be a blighted area, have pervasive poverty, unemployment and general distress; and

(2) At least sixty percent of the residents living in the area have incomes below ninety percent of the median income of all residents:

(a) Within the state of Missouri, according to the last decennial census or other appropriate source as approved by the director; or

(b) Within the county or city not within a county in which the area is located, according to the last decennial census or other appropriate source as approved by the director; and

(3) The resident population of the area shall be at least five hundred but not more than one hundred thousand at the time of designation as an enhanced enterprise zone if the area lies within a metropolitan statistical area, as established by the United States Census Bureau, or if the area does not lie within a metropolitan statistical area, the resident population of the area at the time of designation shall be at least five hundred but not more than forty thousand inhabitants. If the population of the jurisdiction of the governing authority does not meet the minimum population requirements set forth in this subdivision, the population of the area must be at least fifty percent of the population of the jurisdiction. However, no enhanced enterprise zone shall be created which consists of the total area within the political boundaries of a county; and

(4) The level of unemployment of persons, according to the most recent data available from the United States Bureau of Census and approved by the director, within the area is equal to or exceeds the average rate of unemployment for:

(a) The state of Missouri over the previous twelve months; or

(b) The county or city not within a county over the previous twelve months.

2. Notwithstanding the requirements of subsection 1 of this section to the contrary, an enhanced enterprise zone may be established in an area located within a county for which public and individual assistance has been requested by the governor pursuant to Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq., for an emergency proclaimed by the governor pursuant to section 44.100 due to a natural disaster of major proportions, if the area to be designated is blighted and sustained severe damage as a result of such natural disaster, as determined by the state emergency management agency. An application for designation as an enhanced enterprise zone pursuant to this subsection shall be made before the expiration of one year from the date the governor requested federal relief for the area sought to be designated.

3. Notwithstanding the requirements of subsection 1 of this section to the contrary, an enhanced enterprise zone may be designated in a county of declining population if it meets the requirements of subdivisions (1), (3) and either (2) or (4) of subsection 1 of this section. For the purposes of this subsection, a "county of declining population" is one that has lost one percent or more of its population as demonstrated by comparing the most recent decennial census population to the next most recent decennial census population for the county.

4. In addition to meeting the requirements of subsection 1, 2, or 3 of this section, an area, to qualify as an enhanced enterprise zone, shall be demonstrated by the governing authority to have either:

- (1) The potential to create sustainable jobs in a targeted industry; or
- (2) A demonstrated impact on local industry cluster development.

**5. Notwithstanding the requirements of subsections 1 and 4 of this section to the contrary, a renewable energy generation zone may be designated as an enhanced**

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enterprise zone if the renewable energy generation zone meets the criteria set forth in subdivision (25) of section 135.950.

**135.963. IMPROVEMENTS EXEMPT, WHEN — AUTHORIZING RESOLUTION, CONTENTS — PUBLIC HEARING REQUIRED, NOTICE — CERTAIN PROPERTY EXEMPT FROM AD VALOREM TAXES, DURATION — TIME PERIOD — PROPERTY AFFECTED — ASSESSOR'S DUTIES. — 1.** Improvements made to real property as such term is defined in section 137.010 which are made in an enhanced enterprise zone subsequent to the date such zone or expansion thereto was designated, may, upon approval of an authorizing resolution **or ordinance** by the governing authority having jurisdiction of the area in which the improvements are made, be exempt, in whole or in part, from assessment and payment of ad valorem taxes of one or more affected political subdivisions. **Improvements made to real property, as such term is defined in section 137.010, which are locally assessed and in a renewable energy generation zone designated as an enhanced enterprise zone, subsequent to the date such enhanced enterprise zone or expansion thereto was designated, may, upon approval of an authorizing resolution or ordinance by the governing authority having jurisdiction of the area in which the improvements are made, be exempt, in whole or in part, from assessment and payment of ad valorem taxes of one or more affected political subdivisions.** In addition to enhanced business enterprises, a speculative industrial or warehouse building constructed by a public entity or a private entity if the land is leased by a public entity may be subject to such exemption.

2. Such authorizing resolution shall specify the percent of the exemption to be granted, the duration of the exemption to be granted, and the political subdivisions to which such exemption is to apply and any other terms, conditions, or stipulations otherwise required. A copy of the resolution shall be provided to the director within thirty calendar days following adoption of the resolution by the governing authority.

3. No exemption shall be granted until the governing authority holds a public hearing for the purpose of obtaining the opinions and suggestions of residents of political subdivisions to be affected by the exemption from property taxes. The governing authority shall send, by certified mail, a notice of such hearing to each political subdivision in the area to be affected and shall publish notice of such hearing in a newspaper of general circulation in the area to be affected by the exemption at least twenty days prior to the hearing but not more than thirty days prior to the hearing. Such notice shall state the time, location, date, and purpose of the hearing.

4. Notwithstanding subsection 1 of this section, at least one-half of the ad valorem taxes otherwise imposed on subsequent improvements to real property located in an enhanced enterprise zone of enhanced business enterprises or speculative industrial or warehouse buildings as indicated in subsection 1 of this section shall become and remain exempt from assessment and payment of ad valorem taxes of any political subdivision of this state or municipality thereof for a period of not less than ten years following the date such improvements were assessed, provided the improved properties are used for enhanced business enterprises. The exemption for speculative buildings is subject to the approval of the governing authority for a period not to exceed two years if the building is owned by a private entity and five years if the building is owned or ground leased by a public entity. This shall not preclude the building receiving an exemption for the remaining time period established by the governing authority if it was occupied by an enhanced business enterprise. The two- and five-year time periods indicated for speculative buildings shall not be an addition to the local abatement time period for such facility.

5. No exemption shall be granted for a period more than twenty-five years following the date on which the original enhanced enterprise zone was designated by the department.

6. The provisions of subsection 1 of this section shall not apply to improvements made to real property begun prior to August 28, 2004.

7. The abatement referred to in this section shall not relieve the assessor or other responsible official from ascertaining the amount of the equalized assessed value of all taxable property

annually as required by section 99.855, 99.957, or 99.1042 and shall not have the effect of reducing the payments in lieu of taxes referred to in subdivision (2) of subsection 1 of section 99.845, subdivision (2) of subsection 3 of section 99.957, or subdivision (2) of subsection 3 of section 99.1042 unless such reduction is set forth in the plan approved by the governing body of the municipality pursuant to subdivision (1) of subsection 1 of section 99.820, section 99.942, or section 99.1027.

**137.010. DEFINITIONS.** — The following words, terms and phrases when used in laws governing taxation and revenue in the state of Missouri shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

(1) "Grain and other agricultural crops in an unmanufactured condition" shall mean grains and feeds including, but not limited to, soybeans, cow peas, wheat, corn, oats, barley, kafir, rye, flax, grain sorghums, cotton, and such other products as are usually stored in grain and other elevators and on farms; but excluding such grains and other agricultural crops after being processed into products of such processing, when packaged or sacked. The term "processing" shall not include hulling, cleaning, drying, grating, or polishing;

(2) **"Hydroelectric power generating equipment", very-low-head turbine generators with a nameplate generating capacity of at least four hundred kilowatts but not more than six hundred kilowatts and machinery and equipment used directly in the production, generation, conversion, storage, or conveyance of hydroelectric power to land-based devices and appurtenances used in the transmission of electrical energy;**

(3) "Intangible personal property", for the purpose of taxation, shall include all property other than real property and tangible personal property, as defined by this section;

[(3)] (4) "Real property" includes land itself, whether laid out in town lots or otherwise, and all growing crops, buildings, structures, improvements and fixtures of whatever kind thereon, **hydroelectric power generating equipment**, the installed poles used in the transmission or reception of electrical energy, audio signals, video signals or similar purposes, provided the owner of such installed poles is also an owner of a fee simple interest, possessor of an easement, holder of a license or franchise, or is the beneficiary of a right-of-way dedicated for public utility purposes for the underlying land; attached wires, transformers, amplifiers, substations, and other such devices and appurtenances used in the transmission or reception of electrical energy, audio signals, video signals or similar purposes when owned by the owner of the installed poles, otherwise such items are considered personal property; and stationary property used for transportation of liquid and gaseous products, including, but not limited to, petroleum products, natural gas, water, and sewage;

[(4)] (5) "Tangible personal property" includes every tangible thing being the subject of ownership or part ownership whether animate or inanimate, other than money, and not forming part or parcel of real property as herein defined, but does not include household goods, furniture, wearing apparel and articles of personal use and adornment, as defined by the state tax commission, owned and used by a person in his home or dwelling place.

Approved July 7, 2011

HB 749 [HB 749]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Designates April as "Child Abuse Prevention Month" and designates the "blue ribbon" as the official state symbol for child abuse prevention**



AN ACT to amend chapters 9 and 10, RSMo, by adding thereto two new sections relating to child abuse prevention.

SECTION

- A. Enacting clause.
- 9.173. Child abuse prevention month designated for the month of April.
- 10.185. Blue ribbon recognized as the official state symbol for child abuse prevention.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Chapters 9 and 10, RSMo, are amended by adding thereto two new sections, to be known as sections 9.173 and 10.185, to read as follows:

**9.173. CHILD ABUSE PREVENTION MONTH DESIGNATED FOR THE MONTH OF APRIL.** — The month of April is hereby designated as "Child Abuse Prevention Month" in the state of Missouri. The citizens of this state are encouraged to observe the month with appropriate activities and events to increase awareness of the prevalence and warning signs of child abuse and the prevention methods and measures available to reduce the incidence of child abuse in this state.

**10.185. BLUE RIBBON RECOGNIZED AS THE OFFICIAL STATE SYMBOL FOR CHILD ABUSE PREVENTION.** — The "blue ribbon" is hereby recognized as the official state symbol for child abuse prevention in the state of Missouri.

Approved May 5, 2011

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HB 795 [HB 795]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

**Designates the second Friday in March as "Missouri School Read-In Day"**

AN ACT to amend chapter 9, RSMo, by adding thereto one new section relating to the designation of school read-in day.

SECTION

- A. Enacting clause.
- 9.137. Missouri school read-in day designated for second Friday in March.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Chapter 9, RSMo, is amended by adding thereto one new section, to be known as section 9.137, to read as follows:

**9.137. MISSOURI SCHOOL READ-IN DAY DESIGNATED FOR SECOND FRIDAY IN MARCH.** — The second Friday in March shall be set apart and designated as "Missouri School Read-In Day". It is recommended to the people of the state that the day be appropriately observed through activities that will bring about an increased awareness of the importance and benefits of reading and encourage greater emphasis on reading, both in the school and in the home. Missouri school read-in day recognizes that reading proficiency is a major

**factor in determining a child's success in school, regardless of the socioeconomic status, race, ethnic background, or educational level of the child and the child's family.**

Approved May 5, 2011

HB 798 [SCS HB 798, HB 141, HB 153, HCS HB 363, HB 415 & HB 813]

**EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.**

**Renames the Heroes Way Interstate Interchange Designation Program as the Heroes Way Interchange Designation Program and designates several memorial highways and bridges**

AN ACT to repeal section 227.297, RSMo, and to enact in lieu thereof eight new sections relating to the designation of the highway infrastructure system.

SECTION

A. Enacting clause.

- 227.297. Heroes Way interstate interchange designation program established — signage — application procedure — joint committee to review applications.
- 227.418. Ferlin Husky Highway designated for portion of Highway 8 in St. Francois County.
- 227.420. Officer David Haynes Memorial Highway designated for portion of I-44 in St. Louis City.
- 227.422. Missouri State Highway Patrol Sergeant David May Memorial Highway designated for portion of U.S. Highway 67 in Butler County.
- 227.424. Missouri State Highway Patrol Sergeant Joseph G. Schuengel Memorial Highway designated for portion of I-40/64 in St. Louis County.
- 227.426. Glennon T. Moran Memorial Bridge designated for an I-270 bridge in St. Louis County.
- 227.427. Pvt Ova A. Kelley Medal of Honor Memorial Bridge designated for a bridge on State Highway E in Wright County.
- 227.429. Representative Otto Bean Memorial Highway designated for a portion of Highway 25 in Dunklin and Stoddard counties.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Section 227.297, RSMo, is repealed and eight new sections enacted in lieu thereof, to be known as sections 227.297, 227.418, 227.420, 227.422, 227.424, 227.426, 227.427, and 227.429, to read as follows:

**227.297. HEROES WAY INTERSTATE INTERCHANGE DESIGNATION PROGRAM ESTABLISHED — SIGNAGE — APPLICATION PROCEDURE — JOINT COMMITTEE TO REVIEW APPLICATIONS.** — 1. This section establishes an [interstate] interchange designation program, to be known as the "Heroes Way [Interstate] Interchange Designation Program", to honor the fallen Missouri heroes who have been killed in action while performing active military duty with the armed forces in Afghanistan or Iraq on or after September 11, 2001. The signs shall be placed upon [the] interstate **or state numbered highway** interchanges in accordance with this section, and any applicable federal **and state** limitations or conditions on highway signage, including location and spacing.

2. Any person who is related by marriage, adoption, or consanguinity within the second degree to a member of the United States armed forces who was killed in action while performing active military duty with the armed forces in Afghanistan or Iraq on or after September 11, 2001, and who was a resident of this state at the time he or she was killed in action, may apply for an [interstate] interchange designation under the provisions of this section.

3. Any person described under subsection 2 of this section who desires to have an interstate **or state numbered highway** interchange designated after his or her family member shall petition the department of transportation by submitting the following:

(1) An application in a form prescribed by the director, describing the interstate **or state numbered highway** interchange for which the designation is sought and the proposed name of the [interstate] interchange. The application shall include the name of at least one current member of the general assembly who will sponsor the [interstate] interchange designation. The application may contain written testimony for support of the [interstate] interchange designation;

(2) Proof that the family member killed in action was a member of the United States armed forces and proof that such family member was in fact killed in action while performing active military duty with the United States armed forces in Afghanistan or Iraq on or after September 11, 2001. Acceptable proof shall be a statement from the Missouri veterans commission or the United States Department of Veterans Affairs so certifying such facts;

(3) By signing a form provided by the Missouri transportation department, the applicant shall certify that the applicant is related by marriage, adoption, or consanguinity within the second degree to the member of the United States armed forces who was killed in action; and

(4) A fee to be determined by the commission to cover the costs of constructing and maintaining the proposed [interstate] interchange signs. The fee shall not exceed the cost of constructing and maintaining each sign.

4. All moneys received by the department of transportation for the construction and maintenance of [an interstate] interchange signs shall be deposited in the state treasury to the credit of the state road fund.

5. The documents and fees required under this section shall be submitted to the department of transportation.

6. The department of transportation shall submit for approval or disapproval all applications for [interstate] interchange designations to the joint committee on transportation oversight. The joint committee on transportation oversight may review such applications at any scheduled meeting convened pursuant to section 21.795. If satisfied with the application and all its contents, the committee shall approve the application. The committee shall notify the department of transportation upon the approval or denial of an application for an [interstate] interchange designation.

7. The department of transportation shall give notice of any proposed [interstate] interchange designation under this section in a manner reasonably calculated to advise the public of such proposal. Reasonable notice shall include posting the proposal for the designation on the department's official public website and making available copies of the sign designation application to any representative of the news media or public upon request and posting the application on a bulletin board or other prominent public place which is easily accessible to the public and clearly designated for that purpose at the principal office.

8. If the memorial [interstate] interchange designation request is not approved by the joint committee on transportation oversight, ninety-seven percent of the application fee shall be refunded to the applicant.

9. Two signs shall be erected for each [interstate] interchange designation processed under this section.

10. No [interstate] interchange may be named or designated after more than one member of the United States armed forces killed in action. Such person shall only be eligible for one [interstate] interchange designation under the provisions of this section.

11. Any highway signs erected for any [interstate] interchange designation under the provisions of this section shall be erected and maintained for a twenty-year period. After such period, the signs shall be subject to removal by the department of transportation and the [interstate] interchange may be designated to honor persons other than the current designee. An existing

[interstate] interchange designation processed under the provisions of this section may be retained for additional twenty-year increments if, at least one year before the designation's expiration, an application to the department of transportation is made to retain the designation along with the required documents and all applicable fees required under this section.

**227.418. FERLIN HUSKY HIGHWAY DESIGNATED FOR PORTION OF HIGHWAY 8 IN ST. FRANCOIS COUNTY.** — The portion of Highway 8 in St. Francois County from the intersection of State Route M east to the intersection of Main Street in the city of Leadwood shall be designated the "Ferlin Huskey Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs for such designation to be paid for by private donation.

**227.420. OFFICER DAVID HAYNES MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF I-44 IN ST. LOUIS CITY.** — The portion of Interstate 44 in the city of St. Louis from the intersection of Vandeventer Avenue east to the intersection of Mississippi Avenue shall be designated the "Officer David Haynes Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs to be paid for by private donations.

**227.422. MISSOURI STATE HIGHWAY PATROL SERGEANT DAVID MAY MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF U.S. HIGHWAY 67 IN BUTLER COUNTY.** — The portion of U.S. Highway 67 from County Road 422 to the Highway 60 East/67 South Bypass in Butler County shall be designated as the "Missouri State Highway Patrol Sergeant David May Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs to be paid for by private donations.

**227.424. MISSOURI STATE HIGHWAY PATROL SERGEANT JOSEPH G. SCHUENGEL MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF I-40/64 IN ST. LOUIS COUNTY.** — The portion of Interstate 40/64 in St. Louis County from the Boone's Crossing overpass at mile marker 17.0 west to the Spirit of St. Louis Airport overpass at mile marker 13.8 shall be designated as the "Missouri State Highway Patrol Sergeant Joseph G. Schuengel Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs to be paid for by private donations.

**227.426. GLENNON T. MORAN MEMORIAL BRIDGE DESIGNATED FOR AN I-270 BRIDGE IN ST. LOUIS COUNTY.** — The bridge carrying Theiss Road over Interstate 270 in St. Louis County shall be designated the "Glennon T. Moran Memorial Bridge". The department of transportation shall erect and maintain appropriate signs designating such bridge, with the costs for such designation to be paid for by private donation.

**227.427. PVT OVA A. KELLEY MEDAL OF HONOR MEMORIAL BRIDGE DESIGNATED FOR A BRIDGE ON STATE HIGHWAY E IN WRIGHT COUNTY.** — The bridge carrying State Highway E over State Route 60 in Wright County shall be designated the "Pvt Ova A. Kelley Medal of Honor Memorial Bridge". The department of transportation shall erect and maintain appropriate signs designating such bridge, with the costs for such designation to be paid for by private donation.

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**227.429. REPRESENTATIVE OTTO BEAN MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF HIGHWAY 25 IN DUNKLIN AND STODDARD COUNTIES. — The portion of Highway 25 from US Route 412 to Route U/Route Z in Dunklin and Stoddard counties shall be designated the "Representative Otto Bean Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the cost to be paid for by private donations.**

Approved July 14, 2011

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## SB 19 [SCS SB 19]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**Phases-out the corporate franchise tax over a five-year period.**

AN ACT to repeal section 147.010, RSMo, and to enact in lieu thereof one new section relating to the phase-out of the corporate franchise tax.

## SECTION

A. Enacting clause.

147.010. Annual franchise tax, rate — exceptions.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Section 147.010, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 147.010, to read as follows:

**147.010. ANNUAL FRANCHISE TAX, RATE — EXCEPTIONS.** — 1. For the transitional year defined in subsection 4 of this section and each taxable year beginning on or after January 1, 1980, but before January 1, 2000, every corporation organized pursuant to or subject to chapter 351 or pursuant to any other law of this state shall, in addition to all other fees and taxes now required or paid, pay an annual franchise tax to the state of Missouri equal to one-twentieth of one percent of the par value of its outstanding shares and surplus if its outstanding shares and surplus exceed two hundred thousand dollars, or if the outstanding shares of such corporation or any part thereof consist of shares without par value, then, in that event, for the purpose contained in this section, such shares shall be considered as having a value of five dollars per share unless the actual value of such shares exceeds five dollars per share, in which case the tax shall be levied and collected on the actual value and the surplus if the actual value and the surplus exceed two hundred thousand dollars. If such corporation employs a part of its outstanding shares in business in another state or country, then such corporation shall pay an annual franchise tax equal to one-twentieth of one percent of its outstanding shares and surplus employed in this state if its outstanding shares and surplus employed in this state **exceed** two hundred thousand dollars, and for the purposes of sections 147.010 to 147.120, such corporation shall be deemed to have employed in this state that proportion of its entire outstanding shares and surplus that its property and assets employed in this state bears to all its property and assets wherever located. A foreign corporation engaged in business in this state, whether pursuant to a certificate of authority issued pursuant to chapter 351 or not, shall be subject to this section. Any corporation whose outstanding shares and surplus as calculated in this subsection does not exceed two hundred thousand dollars shall state that fact on the annual report form prescribed by the secretary of state. For all taxable years beginning on or after January 1, 2000, but ending before December 31, 2009, the annual franchise tax shall be equal to one-thirtieth of one percent of the corporation's outstanding shares and surplus if the outstanding shares and surplus exceed one million dollars. Any corporation whose outstanding shares and surplus do not exceed one million dollars shall state that fact on the annual report form prescribed by the director of revenue. For taxable years beginning on or after January 1, 2010, **but before December 31, 2011**, the annual franchise tax shall be equal to one-thirtieth of one percent of the corporation's outstanding shares and surplus if the outstanding shares and surplus exceed ten million dollars[, and]. **For all taxable years beginning on or after January 1, 2010, but before December 31, 2015**, any corporation whose outstanding shares and surplus do not exceed ten million dollars shall state that fact on the annual report form prescribed by the director of revenue. **For all taxable years beginning on or after January 1, 2011 but before December 31, 2015**,

a corporation's annual tax liability under this chapter shall not exceed the amount of annual franchise tax liability of such corporation for the taxable year ending on or before December 31, 2010. If the corporation had no annual franchise tax liability under this chapter for the taxable year ending on or before December 31, 2010, because such corporation was not in existence or doing business in Missouri, the annual franchise tax for the first taxable year in which such corporation exists shall be determined by applying the applicable rate of tax provided under the provisions of this subsection to the corporation's outstanding shares and surplus if the outstanding shares and surplus exceed ten million dollars, but in no case shall such corporation's tax liability for any subsequent taxable year exceed the amount of annual franchise tax liability of such corporation for the first full taxable year such corporation was in existence or doing business in Missouri. For taxable years beginning on or after January 1, 2012, the annual franchise tax shall be equal to the percentage rate prescribed in this subsection for the corresponding taxable year of the corporation's outstanding shares and surplus if the outstanding shares and surplus exceed the corresponding minimum threshold amount prescribed as follows:

(1) For tax year 2012, the rate shall be one-thirty-seventh of one percent and the threshold amount shall be ten million dollars;

(2) For tax year 2013, the rate shall be one-fiftieth of one percent and the threshold amount shall be ten million dollars;

(3) For tax year 2014, the rate shall be one-seventy-fifth of one percent and the threshold amount shall be ten million dollars;

(4) For tax year 2015, the rate shall be one-hundred-fiftieth of one percent and the threshold amount shall be ten million dollars;

(5) For tax years beginning on or after January 1, 2016, no annual franchise tax shall be imposed under this section.

2. Sections 147.010 to 147.120 shall not apply to corporations not organized for profit, nor to corporations organized pursuant to the provisions of chapter 349, nor to express companies, which now pay an annual tax on their gross receipts in this state, nor to insurance companies, which are subject to an annual tax on their premium receipts in this state, nor to state, district, county, town and farmers' mutual companies now organized or that may be hereafter organized pursuant to any of the laws of this state, organized for the sole purpose of writing fire, lightning, windstorm, tornado, cyclone, hail and plate glass and mutual automobile insurance and for the purpose of paying any loss incurred by any member by assessment, nor to any mutual insurance corporation not having shares, nor to a company or association organized to transact business of life or accident insurance on the assessment plan for the purpose of mutual protection and benefit to its members and the payment of stipulated sums of moneys to the family, heirs, executors, administrators or assigns of the deceased member, nor to foreign life, fire, accident, surety, liability, steam boiler, tornado, health, or other kind of insurance company of whatever nature coming within the provisions of section 147.050 and doing business in this state, nor to savings and loan associations and domestic and foreign regulated investment companies as defined by Section 170 of the Act of Congress commonly known as the Revenue Act of 1942, nor to electric and telephone corporations organized pursuant to chapter 351 and chapter 392 prior to January 1, 1980, which have been declared tax-exempt organizations pursuant to Section 501(c) of the Internal Revenue Code of 1986, nor for taxable years beginning after December 31, 1986, to banking institutions subject to the annual franchise tax imposed by sections 148.010 to 148.110; but bank deposits shall be considered as funds of the individual depositor left for safekeeping and shall not be considered in computing the amount of tax collectible pursuant to the provisions of sections 147.010 to 147.120.

3. A corporation's taxable year for purposes of sections 147.010 to 147.120 shall be its taxable year as provided in section 143.271.



4. A corporation's transitional year for the purposes of sections 147.010 to 147.120 shall be its taxable year which includes parts of each of the years 1979 and 1980.

5. The franchise tax payable for a corporation's transitional year shall be computed by multiplying the amount otherwise due for that year by a fraction, the numerator of which is the number of months between January 1, 1980, and the end of the taxable year and the denominator of which is twelve. The franchise tax payable, if a corporation's taxable year is changed as provided in section 143.271, shall be similarly computed pursuant to regulations prescribed by the director of revenue.

6. All franchise reports and franchise taxes shall be returned to the director of revenue. All checks and drafts remitted for payment of franchise taxes shall be made payable to the director of revenue.

7. Pursuant to section 32.057, the director of revenue shall maintain the confidentiality of all franchise tax reports returned to the director.

8. The director of the department of revenue shall honor all existing agreements between taxpayers and the director of the department of revenue.

Approved April 26, 2011

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## SB 36 [SB 36]

**EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

**Allows employees of certain employers to take a leave of absence for civil air patrol emergency service duty or counter narcotics missions.**

AN ACT to repeal section 41.1000, RSMo, and to enact in lieu thereof one new section relating to leave for members of the civil air patrol, with an emergency clause.

### SECTION

- A. Enacting clause.
- 41.1000. Civil air patrol, members who are state employees, leave to be granted — members generally, not subject to discharge from employment due to membership.
- B. Emergency clause.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Section 41.1000, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 41.1000, to read as follows:

**41.1000. CIVIL AIR PATROL, MEMBERS WHO ARE STATE EMPLOYEES, LEAVE TO BE GRANTED — MEMBERS GENERALLY, NOT SUBJECT TO DISCHARGE FROM EMPLOYMENT DUE TO MEMBERSHIP.** — 1. Except as otherwise provided in this subsection, any employee of the state of Missouri who is or may become a member of the civil air patrol and has qualified for a civil air patrol emergency service specialty rating or who is certified to fly counter narcotics missions except members of the Missouri national guard may be granted leave of absence from their respective duties, without loss of time, pay, regular leave, impairment of efficiency rating or of any other rights or benefits to which such person would otherwise be entitled, for periods during which such person is engaged in the performance of civil air patrol emergency service duty or counter narcotics missions. Leave for such service shall be for not more than fifteen working days in any state fiscal year, or without regard to length of time when responding to a state or nationally

declared emergency or disaster in the state of Missouri. The employee shall be released from work upon request from the Missouri wing commander or the wing commander's designated representative. The appointing authority shall compensate an employee granted leave pursuant to this section at the employee's regular rate of pay for regular work hours during which the employee is absent from the employee's regular place of employment for the state of Missouri. Any leave granted pursuant to this section shall not affect the employee's leave status.

2. Before any payment of salary is made covering the period of the leave the employee shall file with the appointing authority or supervising agency evidence that such employee participated in emergency services duty or a counter narcotics mission from the wing commander, or the wing commander's designated representative. In addition to the evidence required by this subsection, such employee shall provide to the employee's immediate supervisor a Drug Enforcement Agency/Civil Air Patrol (DEA/CAP) mission number.

3. No member of the civil air patrol shall be discharged from employment because of being a member of the civil air patrol or holding a civil air patrol emergency services specialty rating, nor otherwise discriminated against or dissuaded from joining or continuing such person's service in the civil air patrol by threat or injury to such person in respect to such person's employment.

4. **Any employee of an employer with fifty or more employees who is or may become a member of the civil air patrol and has qualified for a civil air patrol emergency service specialty or who is certified to fly counter narcotics missions shall be granted a leave of absence from their respective duties, without loss of time, regular leave, or of any other rights or benefits to which the employee would otherwise be entitled, for periods during which the employee is engaged in the performance of civil air patrol emergency service duty or counter narcotics missions. Leave for such service shall be for no more than fifteen working days in any calendar year, or without regard to the length of time when responding to a state or nationally declared emergency in the state of Missouri. The employer shall not be obligated to pay a salary to the employee during this leave of absence. The employer shall have the right to request that the employee be exempted from responding to a specific mission and the Missouri wing commander shall honor such request.**

5. The attorney general shall enforce the rights contained in this section for members of the civil air patrol.

**SECTION B. EMERGENCY CLAUSE.** — Because of the need for members of the civil air patrol to assist with possible natural disasters, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved July 1, 2011

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SB 38 [SB 38]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**Establishes a prostate cancer pilot program to provide screening, referral services, treatment and outreach.**

AN ACT to amend chapter 191, RSMo, by adding thereto one new section relating to the prostate cancer pilot program.

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## SECTION

- A. Enacting clause.  
191.950. Prostate cancer pilot programs — definitions — eligibility — services provided — grants — rulemaking authority — sunset provision.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Chapter 191, RSMo, is amended by adding thereto one new section, to be known as section 191.950, to read as follows:

**191.950. PROSTATE CANCER PILOT PROGRAMS — DEFINITIONS — ELIGIBILITY — SERVICES PROVIDED — GRANTS — RULEMAKING AUTHORITY — SUNSET PROVISION. — 1.** As used in this section, the following terms mean:

- (1) "Department", the department of health and senior services;
- (2) "Economically challenged men", men who have a gross income up to one-hundred and fifty percent of the federal poverty level;
- (3) "Program", the prostate cancer pilot program established in this section;
- (4) "Rural area", a rural area which is in either any county of the third classification without a township form of government and with more than twenty thousand but fewer than twenty thousand one hundred inhabitants, any county of the second classification with more than nineteen thousand seven hundred but fewer than nineteen thousand eight hundred inhabitants, or any county of the third classification with a township form of government and with more than thirty-three thousand one hundred but fewer than thirty-three thousand two hundred inhabitants;
- (5) "Uninsured men", men for whom services provided by the program are not covered by private insurance, MO HealthNet or Medicare;
- (6) "Urban area", an urban area which is located in a city not within a county.

2. Subject to securing a cooperative agreement with a nonprofit entity for funding of the program, there is hereby established within the department of health and senior services two "Prostate Cancer Pilot Programs" to fund prostate cancer screening and treatment services and to provide education to men residing in this state. One prostate cancer pilot program shall be located in an urban area and one prostate cancer pilot program shall be located in a rural area. The department may directly contract with the Missouri Foundation for Health, or a successor entity, in the delivery of the pilot program. For purposes of this section, the contracting process of the department with these entities need not be governed by the provisions of chapter 34.

3. The program shall be open to:

- (1) Uninsured men or economically challenged men who are at least fifty years old;
- and

- (2) On the advice of a physician or at the request of the individual, uninsured men or economically challenged men who are at least thirty-five years of age but less than fifty years of age and who are at high risk for prostate cancer.

4. The program shall provide:

- (1) Prostate cancer screening;
- (2) Referral services, including services necessary for diagnosis;
- (3) Treatment services for individuals who are diagnosed with prostate cancer after being screened; and

- (4) Outreach and education activities to ensure awareness and utilization of program services by uninsured men and economically challenged men.

5. Upon appropriation, the department shall distribute grants to administer the program to:

- (1) Local health departments; and

(2) Federally qualified health centers.

6. Three years from the date on which the grants were first administered under this section, the department shall report to the governor and general assembly:

(1) The number of individuals screened and treated under the program, including racial and ethnic data on the individuals who were screened and treated; and

(2) To the extent possible, any cost savings achieved by the program as a result of early detection of prostate cancer.

7. The department shall promulgate rules to establish guidelines regarding eligibility for the program and to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2011, shall be invalid and void.

8. Pursuant to section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset six years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

Approved June 17, 2011

## SB 48 [CCS HCS SB 48]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**Prohibits public utilities from requiring a deposit from certain delinquent customers.**

AN ACT to repeal sections 250.236, 386.420, 386.490, 386.510, 386.515, 386.520, 386.530, 386.540, and 393.015, RSMo, and to enact in lieu thereof eleven new sections relating to utilities, with an emergency clause for certain sections.

### SECTION

A. Enacting clause.

250.236. Termination of water services for nonpayment of sewer charges, allowed when.

386.420. Persons entitled to be heard — commission to make report, when — depositions authorized — may enforce attendance at hearings — record of proceedings to be kept — detailed reconciliation required, when.

386.490. Service and effect of orders.

386.510. Review by circuit court.

386.515. Rehearing, procedure.

386.520. Appeal, pendency of, staying or suspending operation, when.

386.530. Priority over other civil cases in court actions granted.

386.540. Appeals from appellate court — transcript and exhibits — precedence over other civil cases.

393.015. Sewer company may contract with water company to terminate water services for nonpayment of sewer bill — procedure — immunity — costs, reimbursement.

393.152. Delinquency in payment, deposit or guarantee to continue service prohibited, when — inapplicability.

620.2300. Definitions — applications process.

B. Emergency clause.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 250.236, 386.420, 386.490, 386.510, 386.515, 386.520, 386.530, 386.540, and 393.015, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 250.236, 386.420, 386.490, 386.510, 386.515, 386.520, 386.530, 386.540, 393.015, 393.152, and 620.2300, to read as follows:

**250.236. TERMINATION OF WATER SERVICES FOR NONPAYMENT OF SEWER CHARGES, ALLOWED WHEN.** — 1. Any city, town or village may contract with a private or public water company to terminate water services, at the direction of the city, because a customer fails to pay his sewer bill. When charges for sewer services are in arrears for more than three months and after the city sends notice to the customer [by certified mail], the city may disconnect the customer's sewer line or request in writing that the private or public water company discontinue water service until such time as the sewer charges and all related costs are paid.

2. A private or public water company acting pursuant to a written request from the city as provided in subsection 1 of this section is not liable for damages related to termination of water services. All costs related to disconnection and reconnections shall be reimbursed to the private water company by the city.

**386.420. PERSONS ENTITLED TO BE HEARD — COMMISSION TO MAKE REPORT, WHEN — DEPOSITIONS AUTHORIZED — MAY ENFORCE ATTENDANCE AT HEARINGS — RECORD OF PROCEEDINGS TO BE KEPT — DETAILED RECONCILIATION REQUIRED, WHEN.** — 1. At the time fixed for any hearing before the commission or a commissioner, or the time to which the same may have been continued, the complainant, the public counsel and the corporation, person or public utility complained of, and such corporations and persons as the commission may allow to intervene, shall be entitled to be heard and to introduce evidence. The commission shall issue process to enforce the attendance of all necessary witnesses.

2. Whenever an investigation shall be made by the commission, it shall be its duty, to make a report in writing in respect thereto, which shall state the conclusions of the commission, together with its decision, order or requirement in the premises. The commission or any commissioner or any party may, in any investigation or hearing before the commission, cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the circuit courts of this state and to that end may compel the attendance of witnesses and the production of books, waybills, documents, papers, memoranda and accounts. Witnesses whose depositions are taken as provided in this section and the officer taking the same shall severally be entitled to the same fees as are paid for like services in the circuit courts of this state.

3. If an order cannot, in the judgment of the commission, be complied with within thirty days, the commission may grant and prescribe such additional time as in its judgment is reasonably necessary to comply with the order, and may, on application and for good cause shown, extend the time for compliance fixed in its order.

4. A full and complete record shall be made of all proceedings before the commission or any commissioner on any formal hearing had, and all testimony shall be taken down by a reporter appointed by the commission, and the parties shall be entitled to be heard in person or by attorney. Preparation of a printed transcript may be waived by unanimous consent of all the parties. In case of an action to review any order or decision of the commission, a transcript of such testimony, together with all exhibits or copies thereof introduced and all information secured by the commission on its own initiative and considered by it in rendering its order or decision, and of the pleadings, record and proceedings in the cause, shall constitute the record of the commission;

provided, that on review of an order or decision of the commission, the [petitioner] **appellant** and the commission may stipulate that a certain question or questions alone and a specified portion only of the evidence shall be certified to the [circuit] **reviewing** court for its judgment, whereupon such stipulation and the question or questions and the evidence therein specified shall constitute the record on review. **In any proceeding resulting in the establishment of new rates for a public utility that is not classified as a price-cap or competitive company, the commission shall cause to be prepared, with the assistance of the parties to such proceeding, and shall approve, after allowing the parties a reasonable opportunity to provide written input, a detailed reconciliation containing the dollar value and rate or charge impact of each contested issue decided by the commission, and the customer class billing determinants used by the commission to calculate the rates and charges approved by the commission in such proceeding. Such information shall be sufficient to permit a reviewing court and the commission on remand from a reviewing court to determine how the public utility's rates and charges, including the rates and charges for each customer class, would need to be temporarily and, if applicable, permanently adjusted to provide customers or the public utility with any monetary relief that may be due in accordance with the procedures set forth in section 386.520. In the event there is any dispute over the value of a particular issue or the correctness of a billing determinant, the commission shall also include in the reconciliation a quantification of the dollar value and rate or charge impact associated with the dispute.**

**386.490. SERVICE AND EFFECT OF ORDERS.** — 1. Every order of the commission shall be served upon every person or corporation to be affected thereby, either by personal delivery of a certified copy thereof, **by electronic service**, or by mailing a certified copy thereof, in a sealed package with postage prepaid, to the person to be affected thereby, or, in the case of a corporation, to any officer or agent thereof upon whom a summons may be served in accordance with the provisions of the code of civil procedure.

2. [It shall be the duty of every person and corporation to notify the commission forthwith, in writing, of the receipt of the certified copy of every order so served, and in the case of a corporation such notification must be signed and acknowledged by a person or officer duly authorized by the corporation to admit such service. Within a time specified in the order of the commission every person and corporation upon whom it is served must if so required in the order notify the commission in like manner whether the terms of the order are accepted and will be obeyed.

3.] Every order or decision of the commission shall of its own force take effect and become operative thirty days after the service thereof, except as otherwise provided, and shall continue in force either for a period which may be designated therein or until changed or abrogated by the commission, unless such order be unauthorized by this law or any other law or be in violation of a provision of the constitution of the state or of the United States.

**386.510. REVIEW BY CIRCUIT COURT.** — **With respect to commission orders or decisions issued on and after the effective date of this section,** within thirty days after the application for a rehearing is denied, or, if the application is granted, then within thirty days after the rendition of the decision on rehearing, the applicant may [apply to] **file a notice of appeal with the [circuit court of] commission, which shall also be served on the parties to the commission proceeding in accordance with section 386.515, and which shall also be filed with the appellate court with the territorial jurisdiction over** the county where the hearing was held or in which the commission has its principal office [for a writ of certiorari or review (herein referred to as a writ of review)] for the purpose of having the reasonableness or lawfulness of the original order or decision or the order or decision on rehearing inquired into or determined. [The writ shall

be made returnable not later than thirty days after the date of the issuance thereof, and shall direct the commission to certify its record in the case to the court. On the return day the cause shall be heard by the circuit court, unless for a good cause shown the same be continued.] **Except with respect to a stay or suspension pursuant to subsection 1 of section 386.520**, no new or additional evidence may be introduced [upon the hearing] in the [circuit] **appellate** court but the cause shall be heard by the court without the intervention of a jury on the evidence and exhibits introduced before the commission and certified to by it. **The notice of appeal shall include the appellant's application for rehearing, a copy of the reconciliation required by subsection 4 of section 386.420, a concise statement of the issues being appealed, a full and complete list of the parties to the commission proceeding, and any other information specified by the rules of the court. Unless otherwise ordered by the court of appeals, the commission shall, within thirty days of the filing of the notice of appeal, certify its record in the case to the court of appeals.** The commission and each party to the action or proceeding before the commission shall have the right to [appear] **intervene and participate fully** in the review proceedings. Upon the [hearing the circuit] **submission of the case to the court of appeals, the court of appeals** shall [enter judgment] **render its opinion** either affirming or setting aside, **in whole or in part**, the order **or decision** of the commission under review. In case the order **or decision** is reversed by reason of the commission failing to receive testimony properly proffered, the court shall remand the cause to the commission, with instructions to receive the testimony so proffered and rejected, and enter a new order **or render a new decision** based upon the evidence theretofore taken, and such as it is directed to receive. The court may, in its discretion, remand any cause which is reversed by it to the commission for further action. No court in this state, except [the circuit courts to the extent herein specified and] the supreme court or the court of appeals [on appeal], shall have jurisdiction **or authority** to review, reverse, correct or annul any order or decision of the commission or to suspend or delay the executing or operation thereof, or to enjoin, restrain or interfere with the commission in the performance of its official duties. The [circuit] **appellate** courts of this state shall always be deemed open for the trial of suits brought to review the orders and decisions of the commission as provided in the public service commission law and the same shall **where necessary** be tried and determined as suits in equity.

**386.515. REHEARING, PROCEDURE.** — [Prior to August 28, 2001, in proceedings before the Missouri public service commission, consistent with the decision of the supreme court of Missouri in State ex rel. Anderson Motor Service Co., Inc. v. Public Service Commission, 97 S.W.2d 116 (Mo. banc 1936) the review procedure provided for in section 386.510 is exclusive to any other procedure.] **With respect to commission orders or decisions issued on and after the effective date of this section**, an application for rehearing is required to be served on all parties and is a prerequisite to the filing of an [application for writ of review] **appeal under section 386.510**. The application for rehearing puts the parties to the proceeding before the commission on notice that [a writ of review] **an appeal** can follow and any such review **under the appeal** may proceed [without formal notification or summons to] **provided that a copy of the notice of appeal is served on said parties.** **With respect to commission orders or decisions issued on and after [August 28, 2001] the effective date of this section**, the review procedure provided for in section 386.510 continues to be exclusive except that a copy of [any such writ of review] **the notice of appeal required by section 386.510** shall be [provided to] **served on** each party to the proceeding before the commission[, or his or her attorney of record, by hand delivery or by registered mail, and proof of such delivery or mailing shall be filed in the case as provided by subsection 2 of section 536.110] **by the appellant according to the rules established by the court in which the appeal is filed.**

**386.520. APPEAL, PENDENCY OF, STAYING OR SUSPENDING OPERATION, WHEN.** — 1. The pendency of [a writ of review] **an appeal under section 386.510** shall not of itself stay or suspend the operation of the order or decision of the commission, but [during the pendency of such writ, the circuit court in its discretion may stay or suspend, in whole or in part, the operation of the commission's order or decision. No order so staying or suspending an order or decision of the commission shall be made by any circuit court otherwise than on three days' notice and after hearing, and if the order or decision of the commission is suspended the same shall contain a specific finding based upon evidence submitted to the court and identified by reference thereto, that great or irreparable damage would otherwise result to the petitioner and specifying the nature of the damage. In case the order or decision of the commission is stayed or suspended, the order or judgment of the court shall not become effective until a suspending bond shall first have been executed and filed with, and approved by, the circuit court, payable to the state of Missouri, and sufficient in amount and security to secure the prompt payment, by the party petitioning for the review, of all damages caused by the delay in the enforcement of the order or decision of the commission, and of all moneys which any person or corporation may be compelled to pay, pending the review proceedings, for transportation, transmission, product, commodity or service in excess of the charges fixed by the order or decision of the commission, in case such order or decision is sustained.

2. The circuit court, in case it stays or suspends the order or decision of the commission in any manner affecting rates, fares, tolls, rentals, charges or classifications, shall also by order direct the corporation, person or public utility affected to pay into court, from time to time, there to be impounded until the final decision of the case, or into some bank or trust company paying interest on deposits, under such conditions as the court may prescribe, all sums of money which it may collect from any corporation or person in excess of the sum such corporation or person would have been compelled to pay if the order or decision of the commission had not been stayed or suspended.

3. In case any circuit court stays or suspends any order or decision of the commission lowering any rate, fare, toll, rental, charge or classification, upon the execution and approval of said suspending bond, shall forthwith require the corporation, person or public utility affected, under penalty of the immediate enforcement of the order or decision of the commission, pending the review and notwithstanding the suspending order, to keep such accounts, verified by oath, as may, in the judgment of the court, suffice to show the amounts being charged or received by such corporation, person or public utility, pending the review, in excess of the charges allowed by the order or decision of the commission, together with the names and addresses of the corporations and persons to whom overcharges will be refundable in case the charges made by the corporation, person or public utility, pending the review, be not sustained by the circuit court; provided, that street railroad corporations shall not be required to keep a record of the names and addresses of such persons paying such overcharge of fares, but such street railroad corporations shall give to such persons printed receipts showing such overcharges of fares, the form of such printed receipts to be approved by the commission.

4. The court may, from time to time, require said party petitioning for a review to give additional security on, or to increase, the said suspending bond, whenever in the opinion of the court the same may be necessary to secure the prompt payment of said damages or said overcharges.

5. Upon the decision of the circuit court, all moneys which the corporation, person or public utility may have collected pending the appeal, in excess of those authorized by such decision, together with interest, in case the court ordered the deposit of such moneys in a bank or trust company, shall be promptly paid to the corporations or persons entitled thereto, in such manner and through such methods of distribution as may be prescribed by the court, unless an appeal be granted such corporation, person or public utility, as herein provided] **with respect to commission orders or decisions issued on and after the effective date of this section that do not involve the establishment of new rates and charges for a public utility, the appellate**

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court may in its discretion, or upon the recommendation of a special master appointed for such purpose, and after the posting of an appropriate appeal bond, stay or suspend the operation of the order or decision of the commission, in whole or in part, if in its discretion it determines that great or irreparable damage would otherwise result to the appellant.

2. With respect to orders or decisions issued on and after the effective date of this section that involve the establishment of new rates or charges for public utilities that are not classified as price-cap or competitive companies, there shall be no stay or suspension of the commission's order or decision, however:

(1) In the event a final and unappealable judicial decision determines that a commission order or decision unlawfully or unreasonably decided an issue or issues in a manner affecting rates, then the court shall instruct the commission to provide temporary rate adjustments and, if new rates and charges have not been approved by the commission before the judicial decision becomes final and unappealable, prospective rate adjustments. Such adjustments shall be calculated based on the record evidence in the proceeding under review and the information contained in the reconciliation and billing determinants provided by the commission under subsection 4 of section 386.420 and in accordance with the procedures set forth in subdivisions (2) to (5) of this subsection;

(2) If the effect of the unlawful or unreasonable commission decision issued on or after the effective date of this section was to increase the public utility's rates and charges in excess of what the public utility would have received had the commission not erred or to decrease the public utility's rates and charges in a lesser amount than would have occurred had the commission not erred, then the commission shall be instructed on remand to approve temporary rate adjustments designed to flow through to the public utility's then existing customers the excess amounts that were collected by the utility plus interest at the higher of the prime bank lending rate minus two percentage points or zero. Such amounts shall be calculated for the period commencing with the date the rate increase or decrease took effect until the earlier of the date when new rates and charges consistent with the court's opinion became effective or when new rates or charges otherwise approved by the commission as a result of a general rate case filing or complaint became effective. Such amounts shall then be reflected as a rate adjustment over a like period of time. The commission shall issue its order on remand within sixty days unless the commission determines that additional time is necessary to properly calculate the temporary or any prospective rate adjustment, in which case the commission shall issue its order within one hundred and twenty days;

(3) If the effect of the unlawful or unreasonable commission decision was to increase the public utility's rates and charges by a lesser amount than what the public utility would have received had the commission not erred or to decrease the public utility's rates and charges in a greater amount than would have occurred had the commission not erred, then the commission shall be instructed on remand to approve temporary rate adjustments designed to allow the public utility to recover from its then existing customers the amounts it should have collected plus interest at the higher of the prime bank lending rate minus two percentage points or zero. Such amounts shall be calculated for the period commencing with the date the rate increase or decrease took effect until the earlier of the date when new permanent rates and charges consistent with the court's opinion became effective or when new permanent rates or charges otherwise approved by the commission as a result of a general rate case filing or complaint became effective. Such amounts shall then be reflected as a rate adjustment over a like period of time. The commission shall issue its order on remand within sixty days unless the commission determines that additional time is necessary to properly calculate the temporary or any prospective rate adjustment, in which case the commission shall issue its order within one hundred and twenty days;

(4) If the effect of the unlawful or unreasonable commission decision was to allocate too much of a rate increase or too little of a rate decrease to a customer class or classes, then the commission shall be instructed on remand to approve temporary rate adjustments for each customer class as necessary to ensure that each customer class is charged the amounts that would have been charged had the commission not erred. Such amounts shall be calculated for the period commencing with the date the rate increase or decrease took effect until the earlier of the date when new rates and charges consistent with the court's opinion became effective or when new rates or charges otherwise approved by the commission as a result of a general rate case filing or complaint became effective. Such amounts shall then be reflected as a rate adjustment over a like period of time. The commission shall issue its order on remand within sixty days unless the commission determines that additional time is necessary to properly calculate the temporary or any prospective rate adjustment, in which case the commission shall issue its order within one hundred and twenty days;

(5) On and after the effective date of this section, no action affecting the public utility's collection of rates and charges shall be taken in cases where the court cannot make a determination on the merits because the commission failed to include adequate findings of fact to support the commission's decision or failed to receive evidence properly proffered, provided that the commission shall provide such findings of fact or otherwise issue a new order within ninety days of the date of the court's mandate. If such new order is appealed, the period for measuring amounts subject to temporary rate adjustments process set forth in subdivisions (1) to (4) of this subsection shall commence beginning with the date the rate increase or decrease took effect.

**386.530. PRIORITY OVER OTHER CIVIL CASES IN COURT ACTIONS GRANTED.** — All actions or proceedings under this or any other chapter, and all actions and proceedings commenced or prosecuted by order of the commission, and all actions and proceedings to which the commission, the public counsel or the state may be parties, and in which any question arises under this or any other chapter, or under or concerning any order or decision or action of the commission, shall be preferred over all other civil causes except election contests in all the [circuit] **appellate** courts of the state of Missouri, and shall be heard and determined in preference to all other civil business pending therein except election contests, irrespective of position on the calendar. The same preference shall be granted upon application of the public counsel or the commission counsel in any action or proceeding in which either or both may be allowed to intervene.

**386.540. APPEALS FROM APPELLATE COURT — TRANSCRIPT AND EXHIBITS — PRECEDENCE OVER OTHER CIVIL CASES.** — 1. The commission and any party, including the public counsel, who has participated in the [commission] **court of appeals** proceeding [which produced the order or decision may, after the entry of judgment in the circuit court in any action in review, prosecute an appeal to a court having appellate jurisdiction in this state. Such appeal shall be prosecuted as appeals from judgment of the circuit court in civil cases except as otherwise provided in this chapter] **and is aggrieved by the opinion of the court may seek rehearing or transfer to the Missouri supreme court under rules established by the court.** The original transcript of the record and testimony and exhibits, certified to by the commission and filed [in the circuit court in any action to review an order or decision of the commission, together with a transcript of the proceedings in the circuit court,] **with the court of appeals** shall constitute the record on appeal to the supreme court [or any court of appeals].

2. Where an appeal is taken to the supreme court [or the court of appeals], the cause shall, on the return of the papers to the supreme court [or court of appeals], be immediately placed on the docket of the then pending term by the clerk of the court and shall be assigned and brought to a

hearing in the same manner as other causes on the then pending term docket, but shall have precedence over all civil causes of a different nature pending in the court. [No appeal shall be effective when taken by a corporation, person or public utility unless a cost bond of appeal in the sum of five hundred dollars shall be filed within ten days after the entry of judgment in the circuit court appealed from.]

3. [The circuit court may in its discretion suspend its judgment pending the hearing in the supreme court or court of appeals on appeal, upon the filing of a bond by the corporation, person or public utility with good and sufficient security conditioned as provided for bonds upon actions for review and by further complying with all terms and conditions of this law for the suspension of any order or decision of the commission pending the hearing or review in the circuit court. This bond shall be in addition to the cost bond heretofore provided in this section.

4.] The general laws relating to appeals to the supreme court and the court of appeals in this state shall, so far as applicable and not in conflict with the provisions of this chapter, apply to appeals taken under the provisions of this chapter.

**393.015. SEWER COMPANY MAY CONTRACT WITH WATER COMPANY TO TERMINATE WATER SERVICES FOR NONPAYMENT OF SEWER BILL — PROCEDURE — IMMUNITY — COSTS, REIMBURSEMENT.** — 1. Notwithstanding any other provision of law to the contrary, any sewer corporation, municipality or sewer district established under the provisions of chapter 249 or 250, or sections 204.250 to 204.470, or any sewer district created and organized pursuant to constitutional authority, may contract with any water corporation to terminate water services to any customer premises for nonpayment of a sewer bill. No such termination of water service may occur until thirty days after the sewer corporation, municipality or statutory sewer district or sewer district created and organized pursuant to constitutional authority sends a written notice to the customer [by certified mail], except that if the water corporation is performing a combined water and sewer billing service for the sewer corporation, municipality or sewer district, no additional notice or any additional waiting period shall be required other than the notice and waiting period already used by the water corporation to disconnect water service for nonpayment of the water bill. Acting pursuant to a contract, the water corporation shall discontinue water service until such time as the sewer charges and all related costs of termination and reestablishment of sewer and water services are paid by the customer.

2. A water corporation acting pursuant to a contract with a sewer corporation, municipality or sewer district as provided in subsection 1 of this section shall not be liable for damages related to termination of water services unless such damage is caused by the negligence of such water corporation, in which case the water corporation shall be indemnified by the sewer corporation, municipality or sewer district. Unless otherwise specified in the contract, all costs related to the termination and reestablishment of services by the water corporation shall be reimbursed by the sewer corporation, municipality, sewer district or sewer district created and organized pursuant to constitutional authority.

**393.152. DELINQUENCY IN PAYMENT, DEPOSIT OR GUARANTEE TO CONTINUE SERVICE PROHIBITED, WHEN — INAPPLICABILITY.** — 1. A public utility regulated under this chapter shall not require a deposit or guarantee as a condition of continued residential service to any existing customer who has been delinquent in paying his or her utility bill at least five times in twelve consecutive months if:

(1) Such customer has consistently made a payment for each month during the twelve consecutive months, provided that each payment is made by the delinquent date; and

(2) Each payment made in subdivision (1) of this subsection is at least seventy-five dollars or twenty-five percent of the total outstanding balance, provided that the total outstanding balance is three hundred dollars or less.

2. This section shall not apply to any customer whose total outstanding balance exceeds three hundred dollars or to any customer making payments under a pay plan previously arranged with the utility.

**620.2300. DEFINITIONS — APPLICATIONS PROCESS. — 1.** As used in this section, the following terms shall mean;

- (1) "Department", the Missouri department of economic development;
- (2) "Biomass facility", a biomass renewable energy facility or biomass fuel production facility that will not be a major source for air quality permitting purposes;
- (3) "Commission", the Missouri public service commission;
- (4) "County average wage", the average wages in each county as determined by the department for the most recently completed full calendar year. However, if the computed county average wage is above the statewide average wage, the statewide average wage shall be deemed the county average wage for such county for the purpose of determining eligibility. The department shall publish the county average wage for each county at least annually. Notwithstanding the provisions of this subdivision to the contrary, for any project that is relocating employees from a Missouri county with a higher county average wage, the company shall obtain the endorsement of the governing body of the community from which jobs are being relocated or the county average wage for their project shall be the county average wage for the county from which the employees are being relocated;
- (5) "Full-time employee", an employee of the project facility that is scheduled to work an average of at least thirty-five hours per week for a twelve-month period, and one for which the employer offers health insurance and pays at least fifty percent of such insurance premiums;
- (6) "Major source", the same meaning as is provided under 40 C.F.R. 70.2;
- (7) "New job", the number of full-time employees located at the project facility that exceeds the project facility base employment less any decrease in the number of full-time employees at related facilities below the related facility base employment. An employee that spends less than fifty percent of the employee's work time at the project facility is still considered to be located at a facility if the employee receives his or her directions and control from that facility, is on the facility's payroll, one hundred percent of the employee's income from such employment is Missouri income, and the employee is paid at or above the state average wage;
- (8) "Park", an area consisting of a parcel or tract of land, or any combination of parcels or contiguous land that meet all of the following requirements:
  - (a) The area consists of at least fifty contiguous acres;
  - (b) The property within the area is subject to remediation under a clean up program supervised by the Missouri department of natural resources or United States environmental protection agency;
  - (c) The area contains a manufacturing facility that is closed, undergoing closure, idle, underutilized, or curtailed and that at one time employed at least two hundred employees;
  - (d) The development plan for the area includes a biomass facility; and
  - (e) Property located within the area will be used for the development of renewable energy and the demonstration of industrial on-site energy generation;
- (9) "Project", a clean fields renewable energy demonstration project located within a park that will result in the creation of at least fifty new jobs and the retention of at least fifty existing jobs;
- (10) "Project application", an application submitted to the department, by an owner of all or a portion of a park, on a form provided by the department, requesting benefits provided under this section;

(11) "Project facility", a biomass facility at which the new jobs will be located. A project facility may include separate buildings that are located within fifty miles of each other or within the same county such that their purpose and operations are interrelated;

(12) "Project facility base employment", the greater of the number of full-time employees located at the project facility on the date of the project application or for the twelve-month period prior to the date of the project application, the average number of full-time employees located at the project facility. In the event the project facility has not been in operation for a full twelve-month period, the average number of full-time employees for the number of months the project facility has been in operation prior to the date of the project application.

2. The owner of a park seeking to establish a project shall submit a project application to the department for certification of such project. The department shall review all project applications received under this section and, in consultation with the department of natural resources, verify satisfaction of the requirements of this section. If the department approves a project application, the department shall forward such application and approval to the commission.

3. Notwithstanding provisions of section 393.1030 to the contrary, upon receipt of an application and approval from the department, the commission shall assign double credit to any electric power, renewable energy, renewable energy credits, or any successor credit generated from:

(1) Renewable energy resources purchased from the biomass facility located in the park by an electric power supplier;

(2) Electric power generated off-site by utilizing biomass fuel sold by the biomass facility located at the park; or

(3) Electric power generated off-site by renewable energy resources utilizing storage equipment manufactured at the park that increases the quantity of electricity delivered to the electric power supplier.

**SECTION B. EMERGENCY CLAUSE.** — Because of the immediate need to provide meaningful and equitable relief to parties who may successfully pursue review of Missouri Public Service Commission orders or decisions and the need to ensure the creation of jobs through the utilization of alternative energy sources, the repeal and reenactment of sections 386.420, 386.510, 386.515, 386.520, 386.530, and 386.540 and the enactment of section 620.2300 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of sections 386.420, 386.510, 386.515, 386.520, 386.530, and 386.540 and the enactment of section 620.2300 of section A of this act shall be in full force and effect upon its passage and approval.

Approved July 1, 2011

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SB 54 [SCS SB 54]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**Creates the Amy Hestir Student Protection Act.**

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AN ACT to repeal sections 37.710, 160.261, 168.021, 168.071, 168.133, 210.135, 210.145, 210.152, 210.915, 210.922, and 556.037, RSMo, and to enact in lieu thereof eighteen new sections relating to protecting children from sexual offenders, with penalty provisions.

#### SECTION

- A. Enacting clause.
- 37.710. Access to information — authority of office — confidentiality of information.
- 160.085. Citation of law — statutes involved.
- 160.261. Discipline, written policy established by local boards of education — contents — reporting requirements — additional restrictions for certain suspensions — weapons offense, mandatory suspension or expulsion — no civil liability for authorized personnel — spanking not child abuse, when — investigation procedure — officials falsifying reports, penalty.
- 160.262. Mediation, office of the child advocate to coordinate, when — procedures — binding agreement, when.
- 160.2100. Citation of law — task force created, members, duties, expiration date.
- 160.2110. Adoption and implementation of policy, content.
- 162.014. Registered sex offenders prohibited from being school board candidates.
- 162.068. Former employees, information provided by school district, written policy required — suspension of employee under investigation — immunity from liability, when, exception.
- 162.069. Communications between students and school employees and teachers, written policy required, contents — internet sites, limitations — training materials, required content.
- 168.021. Issuance of teachers' licenses — effect of certification in another state and subsequent employment in this state.
- 168.071. Revocation, suspension or refusal of certificate or license, grounds — procedure — appeal.
- 168.133. Criminal background checks required for school personnel, when, procedure — rulemaking authority.
- 210.135. Immunity from liability granted to reporting person or institution, when — exception.
- 210.145. Telephone hotline for reports on child abuse — division duties, protocols, law enforcement contacted immediately, investigation conducted, when, exception — chief investigator named — family support team meetings, who may attend — reporter's right to receive information — admissibility of reports in custody cases.
- 210.152. Reports of abuse or neglect — division to retain certain information — confidential, released only to authorized persons — report removal, when — notice of agency's determination to retain or remove, sent when — case reopened, when — administrative review of determination — de novo judicial review.
- 210.915. Departmental collaboration on registry information — rulemaking authority.
- 210.922. Use of registry information by certain departments, when.
- 556.037. Time limitations for prosecutions for sexual offenses involving a person under eighteen.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 37.710, 160.261, 168.021, 168.071, 168.133, 210.135, 210.145, 210.152, 210.915, 210.922, and 556.037, RSMo, are repealed and eighteen new sections enacted in lieu thereof, to be known as sections 37.710, 160.085, 160.261, 160.262, 160.2100, 160.2110, 162.014, 162.068, 162.069, 168.021, 168.071, 168.133, 210.135, 210.145, 210.152, 210.915, 210.922, and 556.037, to read as follows:

**37.710. ACCESS TO INFORMATION — AUTHORITY OF OFFICE — CONFIDENTIALITY OF INFORMATION.** — 1. The office shall have access to the following information:

(1) The names and physical location of all children in protective services, treatment, or other programs under the jurisdiction of the children's division, the department of mental health, and the juvenile court;

(2) All written reports of child abuse and neglect; and

(3) All current records required to be maintained pursuant to chapters 210 and 211, RSMo.

2. The office shall have the authority:

(1) To communicate privately by any means possible with any child under protective services and anyone working with the child, including the family, relatives, courts, employees of the department of social services and the department of mental health, and other persons or entities providing treatment and services;

(2) To have access, including the right to inspect, copy and subpoena records held by the clerk of the juvenile or family court, juvenile officers, law enforcement agencies, institutions, public or private, and other agencies, or persons with whom a particular child has been either

voluntarily or otherwise placed for care, or has received treatment within this state or in another state;

(3) To work in conjunction with juvenile officers and guardians ad litem;

(4) **To file any findings or reports of the child advocate regarding the parent or child with the court, and issue recommendations regarding the disposition of an investigation, which may be provided to the court and to the investigating agency;**

(5) To file amicus curiae briefs on behalf of the interests of the parent or child;

[(5)] (6) To initiate meetings with the department of social services, the department of mental health, the juvenile court, and juvenile officers;

[(6)] (7) To take whatever steps are appropriate to see that persons are made aware of the services of the child advocate's office, its purpose, and how it can be contacted;

[(7)] (8) To apply for and accept grants, gifts, and bequests of funds from other states, federal, and interstate agencies, and independent authorities, private firms, individuals, and foundations to carry out his or her duties and responsibilities. The funds shall be deposited in a dedicated account established within the office to permit moneys to be expended in accordance with the provisions of the grant or bequest; [and]

[(8)] (9) Subject to appropriation, to establish as needed local panels on a regional or county basis to adequately and efficiently carry out the functions and duties of the office, and address complaints in a timely manner; **and**

**(10) To mediate between alleged victims of sexual misconduct and school districts as provided in subsection 1 of section 160.262.**

3. For any information obtained from a state agency or entity under sections 37.700 to 37.730, the office of child advocate shall be subject to the same disclosure restrictions and confidentiality requirements that apply to the state agency or entity providing such information to the office of child advocate. For information obtained directly by the office of child advocate under sections 37.700 to 37.730, the office of child advocate shall be subject to the same disclosure restrictions and confidentiality requirements that apply to the children's division regarding information obtained during a child abuse and neglect investigation resulting in an unsubstantiated report.

**160.085. CITATION OF LAW — STATUTES INVOLVED. — The provisions of sections 37.710, 160.085, 160.261, 160.262, 162.014, 162.068, 162.069, 168.021, 168.071, 168.133, 210.135, 210.145, 210.152, 210.915, 210.922, and 556.037 relating to protecting children from sexual offenders shall be known as the "Amy Hestir Student Protection Act".**

**160.261. DISCIPLINE, WRITTEN POLICY ESTABLISHED BY LOCAL BOARDS OF EDUCATION — CONTENTS — REPORTING REQUIREMENTS — ADDITIONAL RESTRICTIONS FOR CERTAIN SUSPENSIONS — WEAPONS OFFENSE, MANDATORY SUSPENSION OR EXPULSION — NO CIVIL LIABILITY FOR AUTHORIZED PERSONNEL — SPANKING NOT CHILD ABUSE, WHEN — INVESTIGATION PROCEDURE — OFFICIALS FALSIFYING REPORTS, PENALTY. — 1.** The local board of education of each school district shall clearly establish a written policy of discipline, including the district's determination on the use of corporal punishment and the procedures in which punishment will be applied. A written copy of the district's discipline policy and corporal punishment procedures, if applicable, shall be provided to the pupil and parent or legal guardian of every pupil enrolled in the district at the beginning of each school year and also made available in the office of the superintendent of such district, during normal business hours, for public inspection. All employees of the district shall annually receive instruction related to the specific contents of the policy of discipline and any interpretations necessary to implement the provisions of the policy in the course of their duties, including but not limited to approved methods of dealing

with acts of school violence, disciplining students with disabilities and instruction in the necessity and requirements for confidentiality.

2. The policy shall require school administrators to report acts of school violence to all teachers at the attendance center and, in addition, to other school district employees with a need to know. For the purposes of this chapter or chapter 167, "need to know" is defined as school personnel who are directly responsible for the student's education or who otherwise interact with the student on a professional basis while acting within the scope of their assigned duties. As used in this section, the phrase "act of school violence" or "violent behavior" means the exertion of physical force by a student with the intent to do serious physical injury as defined in subdivision (6) of section 565.002 to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. The policy shall at a minimum require school administrators to report, as soon as reasonably practical, to the appropriate law enforcement agency any of the following crimes, or any act which if committed by an adult would be one of the following crimes:

- (1) First degree murder under section 565.020;
- (2) Second degree murder under section 565.021;
- (3) Kidnapping under section 565.110;
- (4) First degree assault under section 565.050;
- (5) Forcible rape under section 566.030;
- (6) Forcible sodomy under section 566.060;
- (7) Burglary in the first degree under section 569.160;
- (8) Burglary in the second degree under section 569.170;
- (9) Robbery in the first degree under section 569.020;
- (10) Distribution of drugs under section 195.211;
- (11) Distribution of drugs to a minor under section 195.212;
- (12) Arson in the first degree under section 569.040;
- (13) Voluntary manslaughter under section 565.023;
- (14) Involuntary manslaughter under section 565.024;
- (15) Second degree assault under section 565.060;
- (16) Sexual assault under section 566.040;
- (17) Felonious restraint under section 565.120;
- (18) Property damage in the first degree under section 569.100;
- (19) The possession of a weapon under chapter 571;
- (20) Child molestation in the first degree pursuant to section 566.067;
- (21) Deviate sexual assault pursuant to section 566.070;
- (22) Sexual misconduct involving a child pursuant to section 566.083;
- (23) Sexual abuse pursuant to section 566.100;
- (24) Harassment under section 565.090; or

(25) Stalking under section 565.225; committed on school property, including but not limited to actions on any school bus in service on behalf of the district or while involved in school activities. The policy shall require that any portion of a student's individualized education program that is related to demonstrated or potentially violent behavior shall be provided to any teacher and other school district employees who are directly responsible for the student's education or who otherwise interact with the student on an educational basis while acting within the scope of their assigned duties. The policy shall also contain the consequences of failure to obey standards of conduct set by the local board of education, and the importance of the standards to the maintenance of an atmosphere where orderly learning is possible and encouraged.

3. The policy shall provide that any student who is on suspension for any of the offenses listed in subsection 2 of this section or any act of violence or drug-related activity defined by school district policy as a serious violation of school discipline pursuant to subsection 9 of this section shall have as a condition of his or her suspension the requirement that such student is not



allowed, while on such suspension, to be within one thousand feet of any school property in the school district where such student attended school or any activity of that district, regardless of whether or not the activity takes place on district property unless:

(1) Such student is under the direct supervision of the student's parent, legal guardian, or custodian and the superintendent or the superintendent's designee has authorized the student to be on school property;

(2) Such student is under the direct supervision of another adult designated by the student's parent, legal guardian, or custodian, in advance, in writing, to the principal of the school which suspended the student and the superintendent or the superintendent's designee has authorized the student to be on school property;

(3) Such student is enrolled in and attending an alternative school that is located within one thousand feet of a public school in the school district where such student attended school; or

(4) Such student resides within one thousand feet of any public school in the school district where such student attended school in which case such student may be on the property of his or her residence without direct adult supervision.

4. Any student who violates the condition of suspension required pursuant to subsection 3 of this section may be subject to expulsion or further suspension pursuant to the provisions of sections 167.161, 167.164, and 167.171. In making this determination consideration shall be given to whether the student poses a threat to the safety of any child or school employee and whether such student's unsupervised presence within one thousand feet of the school is disruptive to the educational process or undermines the effectiveness of the school's disciplinary policy. Removal of any pupil who is a student with a disability is subject to state and federal procedural rights. This section shall not limit a school district's ability to:

(1) Prohibit all students who are suspended from being on school property or attending an activity while on suspension;

(2) Discipline students for off-campus conduct that negatively affects the educational environment to the extent allowed by law.

5. The policy shall provide for a suspension for a period of not less than one year, or expulsion, for a student who is determined to have brought a weapon to school, including but not limited to the school playground or the school parking lot, brought a weapon on a school bus or brought a weapon to a school activity whether on or off of the school property in violation of district policy, except that:

(1) The superintendent or, in a school district with no high school, the principal of the school which such child attends may modify such suspension on a case-by-case basis; and

(2) This section shall not prevent the school district from providing educational services in an alternative setting to a student suspended under the provisions of this section.

6. For the purpose of this section, the term "weapon" shall mean a firearm as defined under 18 U.S.C. 921 and the following items, as defined in section 571.010: a blackjack, a concealable firearm, an explosive weapon, a firearm, a firearm silencer, a gas gun, a knife, knuckles, a machine gun, a projectile weapon, a rifle, a shotgun, a spring gun or a switchblade knife; except that this section shall not be construed to prohibit a school board from adopting a policy to allow a Civil War reenactor to carry a Civil War era weapon on school property for educational purposes so long as the firearm is unloaded. The local board of education shall define weapon in the discipline policy. Such definition shall include the weapons defined in this subsection but may also include other weapons.

7. All school district personnel responsible for the care and supervision of students are authorized to hold every pupil strictly accountable for any disorderly conduct in school or on any property of the school, on any school bus going to or returning from school, during school-sponsored activities, or during intermission or recess periods.

8. Teachers and other authorized district personnel in public schools responsible for the care, supervision, and discipline of schoolchildren, including volunteers selected with reasonable care

by the school district, shall not be civilly liable when acting in conformity with the established policies developed by each board, including but not limited to policies of student discipline or when reporting to his or her supervisor or other person as mandated by state law acts of school violence or threatened acts of school violence, within the course and scope of the duties of the teacher, authorized district personnel or volunteer, when such individual is acting in conformity with the established policies developed by the board. Nothing in this section shall be construed to create a new cause of action against such school district, or to relieve the school district from liability for the negligent acts of such persons.

9. Each school board shall define in its discipline policy acts of violence and any other acts that constitute a serious violation of that policy. "Acts of violence" as defined by school boards shall include but not be limited to exertion of physical force by a student with the intent to do serious bodily harm to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. School districts shall for each student enrolled in the school district compile and maintain records of any serious violation of the district's discipline policy. Such records shall be made available to teachers and other school district employees with a need to know while acting within the scope of their assigned duties, and shall be provided as required in section 167.020 to any school district in which the student subsequently attempts to enroll.

10. [(1)] Spanking, when administered by certificated personnel and in the presence of a witness who is an employee of the school district, or the use of reasonable force to protect persons or property, when administered by personnel of a school district in a reasonable manner in accordance with the local board of education's written policy of discipline, is not abuse within the meaning of chapter 210. The provisions of sections 210.110 to 210.165 notwithstanding, the children's division shall not have jurisdiction over or investigate any report of alleged child abuse arising out of or related to the use of reasonable force to protect persons or property when administered by personnel of a school district or any spanking administered in a reasonable manner by any certificated school personnel in the presence of a witness who is an employee of the school district pursuant to a written policy of discipline established by the board of education of the school district, as long as no allegation of sexual misconduct arises from the spanking or use of force.

**11. If a student reports alleged sexual misconduct on the part of a teacher or other school employee to a person employed in a school facility who is required to report such misconduct to the children's division under section 210.115, such person and the superintendent of the school district shall forward the allegation to the children's division within twenty-four hours of receiving the information. Reports made to the children's division under this subsection shall be investigated by the division in accordance with the provisions of sections 210.145 to 210.153 and shall not be investigated by the school district under subsections 12 to 20 of this section for purposes of determining whether the allegations should or should not be substantiated. The district may investigate the allegations for the purpose of making any decision regarding the employment of the accused employee.**

[(2)] **12.** Upon receipt of any reports of child abuse by the children's division **other than reports provided under subsection 11 of this section**, pursuant to sections 210.110 to 210.165 which allegedly involve personnel of a school district, the children's division shall notify the superintendent of schools of the district or, if the person named in the alleged incident is the superintendent of schools, the president of the school board of the school district where the alleged incident occurred.

**13.** If, after an initial investigation, the superintendent of schools or the president of the school board finds that the report involves an alleged incident of child abuse other than the administration of a spanking by certificated school personnel or the use of reasonable force to protect persons or property when administered by school personnel pursuant to a written policy of

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discipline or that the report was made for the sole purpose of harassing a public school employee, the superintendent of schools or the president of the school board shall immediately refer the matter back to the children's division and take no further action. [(3)] In all matters referred back to the children's division, the division shall treat the report in the same manner as other reports of alleged child abuse received by the division.

14. If the report pertains to an alleged incident which arose out of or is related to a spanking administered by certificated personnel or the use of reasonable force to protect persons or property when administered by personnel of a school district pursuant to a written policy of discipline or a report made for the sole purpose of harassing a public school employee, a notification of the reported child abuse shall be sent by the superintendent of schools or the president of the school board to the juvenile officer of the county in which the alleged incident occurred.

15. The report shall be jointly investigated by the juvenile officer or a law enforcement officer designated by the juvenile officer and the superintendent of schools or, if the subject of the report is the superintendent of schools, by the juvenile officer or a law enforcement officer designated by the juvenile officer and the president of the school board or such president's designee.

[(4)] 16. The investigation shall begin no later than forty-eight hours after notification from the children's division is received, and shall consist of, but need not be limited to, interviewing and recording statements of the child and the child's parents or guardian within two working days after the start of the investigation, of the school district personnel allegedly involved in the report, and of any witnesses to the alleged incident.

17. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school district personnel shall issue separate reports of their findings and recommendations after the conclusion of the investigation to the school board of the school district within seven days after receiving notice from the children's division.

18. The reports shall contain a statement of conclusion as to whether the report of alleged child abuse is substantiated or is unsubstantiated.

[(5)] 19. The school board shall consider the separate reports **referred to in subsection 17 of this section** and shall issue its findings and conclusions and the action to be taken, if any, within seven days after receiving the last of the two reports. The findings and conclusions shall be made in substantially the following form:

[(a)] (1) The report of the alleged child abuse is unsubstantiated. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school board personnel agree that [the evidence shows that no] **there was not a preponderance of evidence to substantiate that** abuse occurred;

[(b)] (2) The report of the alleged child abuse is substantiated. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school district personnel agree that the **preponderance of** evidence is sufficient to support a finding that the alleged incident of child abuse did occur;

[(c)] (3) The issue involved in the alleged incident of child abuse is unresolved. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school personnel are unable to agree on their findings and conclusions on the alleged incident.

[11.] 20. The findings and conclusions of the school board under [subdivision (5) of] subsection [10] 19 of this section shall be sent to the children's division. If the findings and conclusions of the school board are that the report of the alleged child abuse is unsubstantiated, the investigation shall be terminated, the case closed, and no record shall be entered in the children's division central registry. If the findings and conclusions of the school board are that the report of the alleged child abuse is substantiated, the children's division shall report the incident to the prosecuting attorney of the appropriate county along with the findings and conclusions of the school

district and shall include the information in the division's central registry. If the findings and conclusions of the school board are that the issue involved in the alleged incident of child abuse is unresolved, the children's division shall report the incident to the prosecuting attorney of the appropriate county along with the findings and conclusions of the school board, however, the incident and the names of the parties allegedly involved shall not be entered into the central registry of the children's division unless and until the alleged child abuse is substantiated by a court of competent jurisdiction.

[12.] **21.** Any superintendent of schools, president of a school board or such person's designee or juvenile officer who knowingly falsifies any report of any matter pursuant to this section or who knowingly withholds any information relative to any investigation or report pursuant to this section is guilty of a class A misdemeanor.

[13.] **22.** In order to ensure the safety of all students, should a student be expelled for bringing a weapon to school, violent behavior, or for an act of school violence, that student shall not, for the purposes of the accreditation process of the Missouri school improvement plan, be considered a dropout or be included in the calculation of that district's educational persistence ratio.

**160.262. MEDIATION, OFFICE OF THE CHILD ADVOCATE TO COORDINATE, WHEN — PROCEDURES — BINDING AGREEMENT, WHEN. — 1.** The office of the child advocate as created in section 37.705 shall be authorized to coordinate mediation efforts between school districts and students when requested by both parties when allegations of child abuse arise in a school setting. The office of the child advocate shall maintain a list of individuals who are qualified mediators. The child advocate shall be available as one of the mediators on the list from which parents can choose.

**2.** Mediation procedures shall meet the following requirements:

(1) The mediation process shall not be used to deny or delay any other complaint process available to the parties; and

(2) The mediation process shall be conducted by a qualified and impartial mediator trained in effective mediation techniques who is not affiliated with schools or school professional associations, is not a mandated reporter of child abuse under state law or regulation, and who is available as a public service.

**3.** No student, parent of a student, school employee, or school district shall be required to participate in mediation under this section. If either the school district or the student or student's parent does not wish to enter into mediation, mediation shall not occur.

**4.** Each session in the mediation process shall be scheduled in a timely manner and be held in a location that is convenient to the parties in dispute.

**5.** Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent administrative proceeding, administrative hearing, nor in any civil or criminal proceeding of any state or federal court.

**6.** If the parties resolve a dispute through the mediation process, the parties shall execute a legally binding agreement that sets forth the resolution and:

(1) States that all discussions that occurred during the mediation process shall remain confidential and may not be used as evidence in any subsequent administrative proceeding, administrative hearing, or civil proceeding of any federal or state court; and

(2) Is signed by a representative of each party who has authority to bind the party.

**160.2100. CITATION OF LAW — TASK FORCE CREATED, MEMBERS, DUTIES, EXPIRATION DATE. — 1.** Sections 160.2100 and 160.2110 shall be known and may be cited as "Erin's Law".

2. The "Task Force on the Prevention of Sexual Abuse of Children" is hereby created to study the issue of sexual abuse of children until January 1, 2013. The task force shall consist of all of the following members:

- (1) One member of the general assembly appointed by the president pro tem of the senate;
- (2) One member of the general assembly appointed by the minority floor leader of the senate;
- (3) One member of the general assembly appointed by the speaker of the house of representatives;
- (4) One member of the general assembly appointed by the minority leader of the house of representatives;
- (5) The director of the department of social services or his or her designee;
- (6) The commissioner of education or his or her designee;
- (7) The director of the department of health and senior services or his or her designee;
- (8) The director of the office of prosecution services or his or her designee;
- (9) A representative representing law enforcement appointed by the governor;
- (10) Three active teachers employed in Missouri appointed by the governor;
- (11) A representative of an organization involved in forensic investigation relating to child abuse in this state appointed by the governor;
- (12) A school superintendent appointed by the governor;
- (13) A representative of the state domestic violence coalition appointed by the governor;
- (14) A representative from the juvenile and family court appointed by the governor;
- (15) A representative from Missouri Network of Child Advocacy Centers appointed by the governor;
- (16) An at-large member appointed by the governor.

3. Members of the task force shall be individuals who are actively involved in the fields of the prevention of child abuse and neglect and child welfare. The appointment of members shall reflect the geographic diversity of the state.

4. The task force shall elect a presiding officer by a majority vote of the membership of the task force. The task force shall meet at the call of the presiding officer.

5. The task force shall make recommendations for reducing child sexual abuse in Missouri. In making those recommendations, the task force shall:

- (1) Gather information concerning child sexual abuse throughout the state;
- (2) Receive reports and testimony from individuals, state and local agencies, community-based organizations, and other public and private organizations;
- (3) Create goals for state policy that would prevent child sexual abuse; and
- (4) Submit a final report with its recommendations to the governor, general assembly, and the state board of education by January 1, 2013.

6. The recommendations may include proposals for specific statutory changes and methods to foster cooperation among state agencies and between the state and local government.

7. The task force shall consult with employees of the department of social services, the department of public safety, department of elementary and secondary education, and any other state agency, board, commission, office, or department as necessary to accomplish the task force's responsibilities under this section.

8. The members of the task force shall serve without compensation and shall not be reimbursed for their expenses.

9. The provisions of sections 160.2100 and 160.2110 shall expire on January 1, 2013.

**160.2110. ADOPTION AND IMPLEMENTATION OF POLICY, CONTENT. — 1.** The task force on the prevention of sexual abuse of children established in section 160.2100 may adopt and implement a policy addressing sexual abuse of children that may include:

- (1) Age-appropriate curriculum for students in pre-K through fifth grade;
- (2) Training for school personnel on child sexual abuse;
- (3) Educational information to parents or guardians provided in the school handbook on the warning signs of a child being abused, along with any needed assistance, referral, or resource information;
- (4) Available counseling and resources for students affected by sexual abuse; and
- (5) Emotional and educational support for a child of abuse to continue to be successful in school.

**2.** Any policy adopted may address without limitation:

- (1) Methods for increasing teacher, student, and parent awareness of issues regarding sexual abuse of children, including knowledge of likely warning signs indicating that a child may be a victim of sexual abuse;
- (2) Actions that a child who is a victim of sexual abuse could take to obtain assistance and intervention; and
- (3) Available counseling options for students affected by sexual abuse.

**162.014. REGISTERED SEX OFFENDERS PROHIBITED FROM BEING SCHOOL BOARD CANDIDATES. —** No person shall be a candidate for a member or director of the school board in any school district in this state if such person is registered or is required to be registered as a sex offender under sections 589.400 to 589.425. Any member or director of the school board of any school district who is registered or required to be registered as a sex offender under sections 589.400 to 589.425 shall be ineligible to serve as a member or director of a school board of any school district at the conclusion of his or her term of office.

**162.068. FORMER EMPLOYEES, INFORMATION PROVIDED BY SCHOOL DISTRICT, WRITTEN POLICY REQUIRED — SUSPENSION OF EMPLOYEE UNDER INVESTIGATION — IMMUNITY FROM LIABILITY, WHEN, EXCEPTION. — 1.** By July 1, 2012, every school district shall adopt a written policy on information that the district provides about former employees, both certificated and noncertificated, to other public schools. The policy shall include who is permitted to respond to requests for information from potential employers and the information the district would provide when responding to such a request. The policy shall require that notice of this provision be provided to all current employees and to all potential employers who contact the school district regarding the possible employment of a school district employee.

**2.** Any school district that employs a person about whom the children's division conducts an investigation involving allegations of sexual misconduct with a student and reaches a finding of substantiated shall immediately suspend the employment of such person, notwithstanding any other provision of law, but the district may return the person to his or her employment if the child abuse and neglect review board's finding that the allegation is substantiated is reversed by a court on appeal and becomes final. Nothing shall preclude a school district from otherwise lawfully terminating the employment of any employee about whom there has been a finding of unsubstantiated resulting from an investigation by the children's division involving allegations of sexual misconduct with a student.

**3.** Any school district employee who is permitted to respond to requests for information regarding former employees under a policy adopted by his or her school district under subsection 2 of this section and who communicates only the information

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which such policy directs, and who acts in good faith and without malice shall be immune against any civil action for damages brought by the former employee arising out of the communication of such information. If any such action is brought, the school district employee may, at his or her option, request the attorney general to defend him or her in such suit and the attorney general shall provide such defense, except that if the attorney general represents the school district or the department of elementary and secondary education in a pending licensing matter under section 168.071 the attorney general shall not represent the school district employee.

4. Notwithstanding the provisions of subsection 2 of this section, if a district that has employed any employee whose job involves contact with children receives allegations of sexual misconduct concerning the employee and as a result of such allegations or as a result of such allegations being substantiated by the child abuse and neglect review board dismisses the employee or allows the employee to resign in lieu of being fired and fails to disclose the allegations of sexual misconduct when furnishing a reference for the former employee or responding to a potential employer's request for information regarding such employee, the district shall be directly liable for damages to any student of a subsequent employing district who is found by a court of competent jurisdiction to be a victim of the former employee's sexual misconduct, and the district shall bear third-party liability to the employing district for any legal liability, legal fees, costs, and expenses incurred by the employing district caused by the failure to disclose such information to the employing district.

5. If a school district has previously employed a person about whom the children's division has conducted an investigation involving allegations of sexual misconduct with a student and has reached a finding of substantiated and another public school contacts the district for a reference for the former employee, the district shall disclose the results of the children's division's investigation to the public school.

6. Any school district employee, acting in good faith, who reports alleged sexual misconduct on the part of a teacher or other school employee shall not be discharged or otherwise discriminated against in any fashion because of such reporting.

**162.069. COMMUNICATIONS BETWEEN STUDENTS AND SCHOOL EMPLOYEES AND TEACHERS, WRITTEN POLICY REQUIRED, CONTENTS — INTERNET SITES, LIMITATIONS — TRAINING MATERIALS, REQUIRED CONTENT. — 1.** Every school district shall, by January 1, 2012, promulgate a written policy concerning teacher-student communication and employee-student communication. Such policy shall contain at least the following elements:

(1) Appropriate oral and nonverbal personal communication, which may be combined with or included in any policy on sexual harassment; and

(2) Appropriate use of electronic media such as text messaging and internet sites for both instructional and personal purposes, with an element concerning use of social networking sites no less stringent than the provisions of subsections 2, 3, and 4 of this section.

2. As used in this section, the following terms shall mean:

(1) "Exclusive access", the information on the website is available only to the owner (teacher) and user (student) by mutual explicit consent and where third parties have no access to the information on the website absent an explicit consent agreement with the owner (teacher);

(2) "Former student", any person who was at one time a student at the school at which the teacher is employed and who is eighteen years of age or less and who has not graduated;

(3) "Nonwork-related internet site", any internet website or web page used by a teacher primarily for personal purposes and not for educational purposes;

(4) "Work-related internet site", any internet website or web pages used by a teacher for educational purposes.

3. No teacher shall establish, maintain, or use a work-related internet site unless such site is available to school administrators and the child's legal custodian, physical custodian, or legal guardian.

4. No teacher shall establish, maintain, or use a nonwork-related internet site which allows exclusive access with a current or former student. Nothing in this subsection shall be construed as prohibiting a teacher from establishing a nonwork related internet site, provided the site is used in accordance with this section.

5. Every school district shall, by July 1, 2012, include in its teacher and employee training, a component that provides up-to-date and reliable information on identifying signs of sexual abuse in children and danger signals of potentially abusive relationships between children and adults. The training shall emphasize the importance of mandatory reporting of abuse under section 210.115 including the obligation of mandated reporters to report suspected abuse by other mandated reporters, and how to establish an atmosphere of trust so that students feel their school has concerned adults with whom they feel comfortable discussing matters related to abuse.

**168.021. ISSUANCE OF TEACHERS' LICENSES — EFFECT OF CERTIFICATION IN ANOTHER STATE AND SUBSEQUENT EMPLOYMENT IN THIS STATE.** — 1. Certificates of license to teach in the public schools of the state shall be granted as follows:

(1) By the state board, under rules and regulations prescribed by it:

(a) Upon the basis of college credit;

(b) Upon the basis of examination;

(2) By the state board, under rules and regulations prescribed by the state board with advice from the advisory council established by section 168.015 to any individual who presents to the state board a valid doctoral degree from an accredited institution of higher education accredited by a regional accrediting association such as North Central Association. Such certificate shall be limited to the major area of postgraduate study of the holder, shall be issued only after successful completion of the examination required for graduation pursuant to rules adopted by the state board of education, and shall be restricted to those certificates established pursuant to subdivision (1) of subsection 3 of this section;

(3) By the state board, which shall issue the professional certificate classification in both the general and specialized areas most closely aligned with the current areas of certification approved by the state board, commensurate with the years of teaching experience of the applicant, and based upon the following criteria:

(a) Recommendation of a state-approved baccalaureate-level teacher preparation program;

(b) Successful attainment of the Missouri qualifying score on the exit assessment for teachers or administrators designated by the state board of education. Applicants who have not successfully achieved a qualifying score on the designated examinations will be issued a two-year nonrenewable provisional certificate; and

(c) Upon completion of a background check as prescribed in section 168.133 and possession of a valid teaching certificate in the state from which the applicant's teacher preparation program was completed;

(4) By the state board, under rules prescribed by it, on the basis of a relevant bachelor's degree, or higher degree, and a passing score for the designated exit examination, for individuals whose academic degree and professional experience are suitable to provide a basis for instruction solely in the subject matter of banking or financial responsibility, at the discretion of the state board. Such certificate shall be limited to the major area of study of the holder and shall be



restricted to those certificates established under subdivision (1) of subsection 3 of this section. Holders of certificates granted under this subdivision shall be exempt from the teacher tenure act under sections 168.102 to 168.130 and each school district shall have the decision-making authority on whether to hire the holders of such certificates; or

(5) By the state board, under rules and regulations prescribed by it, on the basis of certification by the American Board for Certification of Teacher Excellence (ABCTE) and verification of ability to work with children as demonstrated by sixty contact hours in any one of the following areas as validated by the school principal: sixty contact hours in the classroom, of which at least forty-five must be teaching; sixty contact hours as a substitute teacher, with at least thirty consecutive hours in the same classroom; sixty contact hours of teaching in a private school; or sixty contact hours of teaching as a paraprofessional, for an initial four-year ABCTE certificate of license to teach, except that such certificate shall not be granted for the areas of early childhood education, elementary education, or special education. Upon the completion of the requirements listed in paragraphs (a), (b), (c), and (d) of this subdivision, an applicant shall be eligible to apply for a career continuous professional certificate under subdivision (2) of subsection 3 of this section:

(a) Completion of thirty contact hours of professional development within four years, which may include hours spent in class in an appropriate college curriculum;

(b) Validated completion of two years of the mentoring program of the American Board for Certification of Teacher Excellence or a district mentoring program approved by the state board of education;

(c) Attainment of a successful performance-based teacher evaluation; and

(d) Participate in a beginning teacher assistance program.

2. All valid teaching certificates issued pursuant to law or state board policies and regulations prior to September 1, 1988, shall be exempt from the professional development requirements of this section and shall continue in effect until they expire, are revoked or suspended, as provided by law. When such certificates are required to be renewed, the state board or its designee shall grant to each holder of such a certificate the certificate most nearly equivalent to the one so held. Anyone who holds, as of August 28, 2003, a valid PC-I, PC-II, or continuous professional certificate shall, upon expiration of his or her current certificate, be issued the appropriate level of certificate based upon the classification system established pursuant to subsection 3 of this section.

3. Certificates of license to teach in the public schools of the state shall be based upon minimum requirements prescribed by the state board of education **which shall include completion of a background check as prescribed in section 168.133**. The state board shall provide for the following levels of professional certification: an initial professional certificate and a career continuous professional certificate.

(1) The initial professional certificate shall be issued upon completion of requirements established by the state board of education and shall be valid based upon verification of actual teaching within a specified time period established by the state board of education. The state board shall require holders of the four-year initial professional certificate to:

(a) Participate in a mentoring program approved and provided by the district for a minimum of two years;

(b) Complete thirty contact hours of professional development, which may include hours spent in class in an appropriate college curriculum, or for holders of a certificate under subdivision (4) of subsection 1 of this section, an amount of professional development in proportion to the certificate holder's hours in the classroom, if the certificate holder is employed less than full time; and

(c) Participate in a beginning teacher assistance program;

(2) (a) The career continuous professional certificate shall be issued upon verification of completion of four years of teaching under the initial professional certificate and upon verification of the completion of the requirements articulated in paragraphs (a), (b), and (c) of subdivision (1)

of this subsection or paragraphs (a), (b), (c), and (d) of subdivision (5) of subsection 1 of this section.

(b) The career continuous professional certificate shall be continuous based upon verification of actual employment in an educational position as provided for in state board guidelines and completion of fifteen contact hours of professional development per year which may include hours spent in class in an appropriate college curriculum. Should the possessor of a valid career continuous professional certificate fail, in any given year, to meet the fifteen-hour professional development requirement, the possessor may, within two years, make up the missing hours. In order to make up for missing hours, the possessor shall first complete the fifteen-hour requirement for the current year and then may count hours in excess of the current year requirement as make-up hours. Should the possessor fail to make up the missing hours within two years, the certificate shall become inactive. In order to reactivate the certificate, the possessor shall complete twenty-four contact hours of professional development which may include hours spent in the classroom in an appropriate college curriculum within the six months prior to or after reactivating his or her certificate. The requirements of this paragraph shall be monitored and verified by the local school district which employs the holder of the career continuous professional certificate.

(c) A holder of a career continuous professional certificate shall be exempt from the professional development contact hour requirements of paragraph (b) of this subdivision if such teacher has a local professional development plan in place within such teacher's school district and meets two of the three following criteria:

- a. Has ten years of teaching experience as defined by the state board of education;
- b. Possesses a master's degree; or
- c. Obtains a rigorous national certification as approved by the state board of education.

4. Policies and procedures shall be established by which a teacher who was not retained due to a reduction in force may retain the current level of certification. There shall also be established policies and procedures allowing a teacher who has not been employed in an educational position for three years or more to reactivate his or her last level of certification by completing twenty-four contact hours of professional development which may include hours spent in the classroom in an appropriate college curriculum within the six months prior to or after reactivating his or her certificate.

5. The state board shall, upon [an appropriate] **completion of a background check as prescribed in section 168.133**, issue a professional certificate classification in the areas most closely aligned with an applicant's current areas of certification, commensurate with the years of teaching experience of the applicant, to any person who is hired to teach in a public school in this state and who possesses a valid teaching certificate from another state or certification under subdivision (4) of subsection 1 of this section, provided that the certificate holder shall annually complete the state board's requirements for such level of certification, and shall establish policies by which residents of states other than the state of Missouri may be assessed a fee for a certificate license to teach in the public schools of Missouri. Such fee shall be in an amount sufficient to recover any or all costs associated with the issuing of a certificate of license to teach. The board shall promulgate rules to authorize the issuance of a provisional certificate of license, which shall allow the holder to assume classroom duties pending the completion of a criminal background check under section 168.133, for any applicant who:

- (1) Is the spouse of a member of the armed forces stationed in Missouri;
- (2) Relocated from another state within one year of the date of application;
- (3) Underwent a criminal background check in order to be issued a teaching certificate of license from another state; and
- (4) Otherwise qualifies under this section.

6. The state board may assess to holders of an initial professional certificate a fee, to be deposited into the excellence in education revolving fund established pursuant to section 160.268, for the issuance of the career continuous professional certificate. However, such fee shall not

exceed the combined costs of issuance and any criminal background check required as a condition of issuance. Applicants for the initial ABCTE certificate shall be responsible for any fees associated with the program leading to the issuance of the certificate, but nothing in this section shall prohibit a district from developing a policy that permits fee reimbursement.

7. Any member of the public school retirement system of Missouri who entered covered employment with ten or more years of educational experience in another state or states and held a certificate issued by another state and subsequently worked in a school district covered by the public school retirement system of Missouri for ten or more years who later became certificated in Missouri shall have that certificate dated back to his or her original date of employment in a Missouri public school.

8. The provisions of subdivision (5) of subsection 1 of this section, as well as any other provision of this section relating to the American Board for Certification of Teacher Excellence, shall terminate on August 28, 2014.

**168.071. REVOCATION, SUSPENSION OR REFUSAL OF CERTIFICATE OR LICENSE, GROUNDS — PROCEDURE — APPEAL.** — 1. The state board of education may refuse to issue or renew a certificate, or may, upon hearing, discipline the holder of a certificate of license to teach for the following causes:

(1) A certificate holder or applicant for a certificate has pleaded to or been found guilty of a felony or crime involving moral turpitude under the laws of this state, any other state, of the United States, or any other country, whether or not sentence is imposed;

(2) The certification was obtained through use of fraud, deception, misrepresentation or bribery;

(3) There is evidence of incompetence, immorality, or neglect of duty by the certificate holder;

(4) A certificate holder has been subject to disciplinary action relating to certification issued by another state, territory, federal agency, or country upon grounds for which discipline is authorized in this section; or

(5) If charges are filed by the local board of education, based upon the annulling of a written contract with the local board of education, for reasons other than election to the general assembly, without the consent of the majority of the members of the board that is a party to the contract.

2. A public school district may file charges seeking the discipline of a holder of a certificate of license to teach based upon any cause or combination of causes outlined in subsection 1 of this section, including annulment of a written contract. Charges shall be in writing, specify the basis for the charges, and be signed by the chief administrative officer of the district, or by the president of the board of education as authorized by a majority of the board of education. The board of education may also petition the office of the attorney general to file charges on behalf of the school district for any cause other than annulment of contract, with acceptance of the petition at the discretion of the attorney general.

3. The department of elementary and secondary education may file charges seeking the discipline of a holder of a certificate of license to teach based upon any cause or combination of causes outlined in subsection 1 of this section, other than annulment of contract. Charges shall be in writing, specify the basis for the charges, and be signed by legal counsel representing the department of elementary and secondary education.

4. If the underlying conduct or actions which are the basis for charges filed pursuant to this section are also the subject of a pending criminal charge against the person holding such certificate, the certificate holder may request, in writing, a delayed hearing on advice of counsel under the fifth amendment of the Constitution of the United States. Based upon such a request, no hearing shall be held until after a trial has been completed on this criminal charge.

5. The certificate holder shall be given not less than thirty days' notice of any hearing held pursuant to this section.

6. Other provisions of this section notwithstanding, the certificate of license to teach shall be revoked or, in the case of an applicant, a certificate shall not be issued, if the certificate holder or applicant has pleaded guilty to or been found guilty of any of the following offenses established pursuant to Missouri law or offenses of a similar nature established under the laws of any other state or of the United States, or any other country, whether or not the sentence is imposed:

(1) Any dangerous felony as defined in section 556.061, RSMo, or murder in the first degree **under section 565.020**;

(2) Any of the following sexual offenses: rape **under section 566.030**; statutory rape in the first degree **under section 566.032**; statutory rape in the second degree **under section 566.034**; sexual assault **under section 566.040**; forcible sodomy **under section 566.060**; statutory sodomy in the first degree **under section 566.062**; statutory sodomy in the second degree **under section 566.064**; child molestation in the first degree **under section 566.067**; child molestation in the second degree **under section 566.068**; deviate sexual assault **under section 566.070**; sexual misconduct involving a child **under section 566.083**; **sexual contact with a student while on public school property under section 566.086**; sexual misconduct in the first degree **under section 566.090**; **sexual misconduct in the second degree under section 566.093**; **sexual misconduct in the third degree under section 566.095**; sexual abuse **under section 565.100**; enticement of a child **under section 566.151**; or attempting to entice a child;

(3) Any of the following offenses against the family and related offenses: incest **under section 568.020**; abandonment of child in the first degree **under section 568.030**; abandonment of child in the second degree **under section 568.032**; endangering the welfare of a child in the first degree **under section 568.045**; abuse of a child **under section 568.060**; child used in a sexual performance **under section 568.080**; promoting sexual performance by a child **under section 568.090**; or trafficking in children **under section 568.175**; and

(4) Any of the following offenses involving child pornography and related offenses: promoting obscenity in the first degree **under section 573.020**; promoting obscenity in the second degree when the penalty is enhanced to a class D felony **under section 573.030**; promoting child pornography in the first degree **under section 573.025**; promoting child pornography in the second degree **under section 573.035**; possession of child pornography [in the first degree] **under section 573.037**; [possession of child pornography in the second degree; furnishing child pornography to a minor;] furnishing pornographic materials to minors **under section 573.040**; or coercing acceptance of obscene material **under section 573.065**.

7. When a certificate holder pleads guilty or is found guilty of any offense that would authorize the state board of education to seek discipline against that holder's certificate of license to teach, the local board of education or the department of elementary and secondary education shall immediately provide written notice to the state board of education and the attorney general regarding the plea of guilty or finding of guilty.

8. The certificate holder whose certificate was revoked pursuant to subsection 6 of this section may appeal such revocation to the state board of education. Notice of this appeal must be received by the commissioner of education within ninety days of notice of revocation pursuant to this subsection. Failure of the certificate holder to notify the commissioner of the intent to appeal waives all rights to appeal the revocation. Upon notice of the certificate holder's intent to appeal, an appeal hearing shall be held by a hearing officer designated by the commissioner of education, with the final decision made by the state board of education, based upon the record of that hearing. The certificate holder shall be given not less than thirty days' notice of the hearing, and an opportunity to be heard by the hearing officer, together with witnesses.

9. In the case of any certificate holder who has surrendered or failed to renew his or her certificate of license to teach, the state board of education may refuse to issue or renew, or may suspend or revoke, such certificate for any of the reasons contained in this section.

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10. In those cases where the charges filed pursuant to this section are based upon an allegation of misconduct involving a minor child, the hearing officer may accept into the record the sworn testimony of the minor child relating to the misconduct received in any court or administrative hearing.

11. Hearings, appeals or other matters involving certificate holders, licensees or applicants pursuant to this section may be informally resolved by consent agreement or agreed settlement or voluntary surrender of the certificate of license pursuant to the rules promulgated by the state board of education.

12. The final decision of the state board of education is subject to judicial review pursuant to sections 536.100 to 536.140, RSMo.

13. A certificate of license to teach to an individual who has been convicted of a felony or crime involving moral turpitude, whether or not sentence is imposed, shall be issued only upon motion of the state board of education adopted by a unanimous affirmative vote of those members present and voting.

**168.133. CRIMINAL BACKGROUND CHECKS REQUIRED FOR SCHOOL PERSONNEL, WHEN, PROCEDURE — RULEMAKING AUTHORITY. —** 1. The school district shall ensure that a criminal background check is conducted on any person employed after January 1, 2005, authorized to have contact with pupils and prior to the individual having contact with any pupil. Such persons include, but are not limited to, administrators, teachers, aides, paraprofessionals, assistants, secretaries, custodians, cooks, and nurses. The school district shall also ensure that a criminal background check is conducted for school bus drivers. The district may allow such drivers to operate buses pending the result of the criminal background check. For bus drivers, the **school district shall be responsible for conducting the criminal background check** [shall be conducted] on drivers employed by the school district [or]. **For drivers** employed by a pupil transportation company under contract with the school district, **the criminal background check shall be conducted pursuant to section 43.540 and conform to the requirements established in the National Child Protection Act of 1993, as amended by the Volunteers for Children Act. Personnel who have successfully undergone a criminal background check and a check of the family care safety registry as part of the professional license application process under section 168.021 and who have received clearance on the checks within one prior year of employment shall be considered to have completed the background check requirement. A criminal background check under this section shall include a search of any information publicly available in an electronic format through a public index or single case display.**

2. In order to facilitate the criminal history background check [on any person employed after January 1, 2005], the applicant shall submit [two sets] **a set** of fingerprints collected pursuant to standards determined by the Missouri highway patrol. [One set of] **The** fingerprints shall be used by the highway patrol to search the criminal history repository [and the family care safety registry pursuant to sections 210.900 to 210.936, RSMo,] and [the second set] shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files.

3. The applicant shall pay the fee for the state criminal history record information pursuant to section 43.530, RSMo, and sections 210.900 to 210.936, RSMo, and pay the appropriate fee determined by the Federal Bureau of Investigation for the federal criminal history record when he or she applies for a position authorized to have contact with pupils pursuant to this section. The department shall distribute the fees collected for the state and federal criminal histories to the Missouri highway patrol.

4. **The department of elementary and secondary education shall facilitate an annual check of employed persons holding current active certificates under section 168.021 against criminal history records in the central repository under section 43.530, the sexual**

offender registry under sections 589.400 to 589.475, and child abuse central registry under sections 210.109 to 210.183. The department of elementary and secondary education shall facilitate procedures for school districts to submit personnel information annually for persons employed by the school districts who do not hold a current valid certificate who are required by subsection 1 of this section to undergo a criminal background check, sexual offender registry check, and child abuse central registry check. The Missouri state highway patrol shall provide ongoing electronic updates to criminal history background checks of those persons previously submitted, both those who have an active certificate and those who do not have an active certificate, by the department of elementary and secondary education. This shall fulfill the annual check against the criminal history records in the central repository under section 43.530.

5. The school district may adopt a policy to provide for reimbursement of expenses incurred by an employee for state and federal criminal history information pursuant to section 43.530, RSMo.

[5.] 6. If, as a result of the criminal history background check mandated by this section, it is determined that the holder of a certificate issued pursuant to section 168.021 has pled guilty or nolo contendere to, or been found guilty of a crime or offense listed in section 168.071, or a similar crime or offense committed in another state, the United States, or any other country, regardless of imposition of sentence, such information shall be reported to the department of elementary and secondary education.

[6.] 7. Any school official making a report to the department of elementary and secondary education in conformity with this section shall not be subject to civil liability for such action.

[7.] 8. For any teacher who is employed by a school district on a substitute or part-time basis within one year of such teacher's retirement from a Missouri school, the state of Missouri shall not require such teacher to be subject to any additional background checks prior to having contact with pupils. Nothing in this subsection shall be construed as prohibiting or otherwise restricting a school district from requiring additional background checks for such teachers employed by the school district.

[8.] 9. A criminal background check and fingerprint collection conducted under subsections 1 and 2 of this section shall be valid for at least a period of one year and transferrable from one school district to another district. **A school district may, in its discretion, conduct a new criminal background check and fingerprint collection under subsections 1 and 2 for a newly hired employee at the district's expense.** A teacher's change in type of certification shall have no effect on the transferability or validity of such records.

[9.] 10. Nothing in this section shall be construed to alter the standards for suspension, denial, or revocation of a certificate issued pursuant to this chapter.

[10.] 11. The state board of education may promulgate rules for criminal history background checks made pursuant to this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2005, shall be invalid and void.

**210.135. IMMUNITY FROM LIABILITY GRANTED TO REPORTING PERSON OR INSTITUTION, WHEN — EXCEPTION. — 1.** Any person, official, or institution complying with the provisions of sections 210.110 to 210.165 in the making of a report, the taking of color photographs, or the making of radiologic examinations pursuant to sections 210.110 to 210.165,

or both such taking of color photographs and making of radiologic examinations, or the removal or retaining a child pursuant to sections 210.110 to 210.165, or in cooperating with the division, or any other law enforcement agency, juvenile office, court, or child-protective service agency of this or any other state, in any of the activities pursuant to sections 210.110 to 210.165, or any other allegation of child abuse, neglect or assault, pursuant to sections 568.045 to 568.060, RSMo, shall have immunity from any liability, civil or criminal, that otherwise might result by reason of such actions. Provided, however, any person, official or institution intentionally filing a false report, acting in bad faith, or with ill intent, shall not have immunity from any liability, civil or criminal. Any such person, official, or institution shall have the same immunity with respect to participation in any judicial proceeding resulting from the report.

**2. Any person, who is not a school district employee, who makes a report to any employee of the school district of child abuse by a school employee shall have immunity from any liability, civil or criminal, that otherwise might result because of such report. Provided, however, that any such person who makes a false report, knowing that the report is false, or who acts in bad faith or with ill intent in making such report shall not have immunity from any liability, civil or criminal. Any such person shall have the same immunity with respect to participation in any judicial proceeding resulting from the report.**

**210.145. TELEPHONE HOTLINE FOR REPORTS ON CHILD ABUSE — DIVISION DUTIES, PROTOCOLS, LAW ENFORCEMENT CONTACTED IMMEDIATELY, INVESTIGATION CONDUCTED, WHEN, EXCEPTION — CHIEF INVESTIGATOR NAMED — FAMILY SUPPORT TEAM MEETINGS, WHO MAY ATTEND — REPORTER'S RIGHT TO RECEIVE INFORMATION — ADMISSIBILITY OF REPORTS IN CUSTODY CASES. — 1.** The division shall develop protocols which give priority to:

- (1) Ensuring the well-being and safety of the child in instances where child abuse or neglect has been alleged;
- (2) Promoting the preservation and reunification of children and families consistent with state and federal law;
- (3) Providing due process for those accused of child abuse or neglect; and
- (4) Maintaining an information system operating at all times, capable of receiving and maintaining reports. This information system shall have the ability to receive reports over a single, statewide toll-free number. Such information system shall maintain the results of all investigations, family assessments and services, and other relevant information.

2. The division shall utilize structured decision-making protocols for classification purposes of all child abuse and neglect reports. The protocols developed by the division shall give priority to ensuring the well-being and safety of the child. All child abuse and neglect reports shall be initiated within twenty-four hours and shall be classified based upon the reported risk and injury to the child. The division shall promulgate rules regarding the structured decision-making protocols to be utilized for all child abuse and neglect reports.

3. Upon receipt of a report, the division shall determine if the report merits investigation, including reports which if true would constitute a suspected violation of any of the following: section 565.020, 565.021, 565.023, 565.024, or 565.050, RSMo, if the victim is a child less than eighteen years of age, section 566.030 or 566.060, RSMo, if the victim is a child less than eighteen years of age, or other crimes under chapter 566, RSMo, if the victim is a child less than eighteen years of age and the perpetrator is twenty-one years of age or older, section 567.050, RSMo, if the victim is a child less than eighteen years of age, section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, or 568.090, RSMo, section 573.025, 573.035, 573.037, or 573.040, RSMo, or an attempt to commit any such crimes. The division shall immediately communicate all reports that merit investigation to its appropriate local office and any relevant information as may be contained in the information system. The local division staff shall determine, through the use of protocols developed by the division, whether an investigation or the family assessment and

services approach should be used to respond to the allegation. The protocols developed by the division shall give priority to ensuring the well-being and safety of the child.

4. The local office shall contact the appropriate law enforcement agency immediately upon receipt of a report which division personnel determine merits an investigation and provide such agency with a detailed description of the report received. In such cases the local division office shall request the assistance of the local law enforcement agency in all aspects of the investigation of the complaint. The appropriate law enforcement agency shall either assist the division in the investigation or provide the division, within twenty-four hours, an explanation in writing detailing the reasons why it is unable to assist.

5. The local office of the division shall cause an investigation or family assessment and services approach to be initiated in accordance with the protocols established in subsection 2 of this section, except in cases where the sole basis for the report is educational neglect. If the report indicates that educational neglect is the only complaint and there is no suspicion of other neglect or abuse, the investigation shall be initiated within seventy-two hours of receipt of the report. If the report indicates the child is in danger of serious physical harm or threat to life, an investigation shall include direct observation of the subject child within twenty-four hours of the receipt of the report. Local law enforcement shall take all necessary steps to facilitate such direct observation. If the parents of the child are not the alleged abusers, a parent of the child must be notified prior to the child being interviewed by the division. If the abuse is alleged to have occurred in a school or child-care facility the division shall not meet with the child in any school building or child-care facility building where abuse of such child is alleged to have occurred. When the child is reported absent from the residence, the location and the well-being of the child shall be verified. For purposes of this subsection, child-care facility shall have the same meaning as such term is defined in section 210.201.

6. The director of the division shall name at least one chief investigator for each local division office, who shall direct the division response on any case involving a second or subsequent incident regarding the same subject child or perpetrator. The duties of a chief investigator shall include verification of direct observation of the subject child by the division and shall ensure information regarding the status of an investigation is provided to the public school district liaison. The public school district liaison shall develop protocol in conjunction with the chief investigator to ensure information regarding an investigation is shared with appropriate school personnel. The superintendent of each school district shall designate a specific person or persons to act as the public school district liaison. Should the subject child attend a nonpublic school the chief investigator shall notify the school principal of the investigation. Upon notification of an investigation, all information received by the public school district liaison or the school shall be subject to the provisions of the federal Family Educational Rights and Privacy Act (FERPA), 20 U.S.C., Section 1232g, and federal rule 34 C.F.R., Part 99.

7. The investigation shall include but not be limited to the nature, extent, and cause of the abuse or neglect; the identity and age of the person responsible for the abuse or neglect; the names and conditions of other children in the home, if any; the home environment and the relationship of the subject child to the parents or other persons responsible for the child's care; any indication of incidents of physical violence against any other household or family member; and other pertinent data.

8. When a report has been made by a person required to report under section 210.115, the division shall contact the person who made such report within forty-eight hours of the receipt of the report in order to ensure that full information has been received and to obtain any additional information or medical records, or both, that may be pertinent.

9. Upon completion of the investigation, if the division suspects that the report was made maliciously or for the purpose of harassment, the division shall refer the report and any evidence of malice or harassment to the local prosecuting or circuit attorney.

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10. Multidisciplinary teams shall be used whenever conducting the investigation as determined by the division in conjunction with local law enforcement. Multidisciplinary teams shall be used in providing protective or preventive social services, including the services of law enforcement, a liaison of the local public school, the juvenile officer, the juvenile court, and other agencies, both public and private.

11. For all family support team meetings involving an alleged victim of child abuse or neglect, the parents, legal counsel for the parents, foster parents, the legal guardian or custodian of the child, the guardian ad litem for the child, and the volunteer advocate for the child shall be provided notice and be permitted to attend all such meetings. Family members, other than alleged perpetrators, or other community informal or formal service providers that provide significant support to the child and other individuals may also be invited at the discretion of the parents of the child. In addition, the parents, the legal counsel for the parents, the legal guardian or custodian and the foster parents may request that other individuals, other than alleged perpetrators, be permitted to attend such team meetings. Once a person is provided notice of or attends such team meetings, the division or the convenor of the meeting shall provide such persons with notice of all such subsequent meetings involving the child. Families may determine whether individuals invited at their discretion shall continue to be invited.

12. If the appropriate local division personnel determine after an investigation has begun that completing an investigation is not appropriate, the division shall conduct a family assessment and services approach. The division shall provide written notification to local law enforcement prior to terminating any investigative process. The reason for the termination of the investigative process shall be documented in the record of the division and the written notification submitted to local law enforcement. Such notification shall not preclude nor prevent any investigation by law enforcement.

13. If the appropriate local division personnel determines to use a family assessment and services approach, the division shall:

(1) Assess any service needs of the family. The assessment of risk and service needs shall be based on information gathered from the family and other sources;

(2) Provide services which are voluntary and time-limited unless it is determined by the division based on the assessment of risk that there will be a high risk of abuse or neglect if the family refuses to accept the services. The division shall identify services for families where it is determined that the child is at high risk of future abuse or neglect. The division shall thoroughly document in the record its attempt to provide voluntary services and the reasons these services are important to reduce the risk of future abuse or neglect to the child. If the family continues to refuse voluntary services or the child needs to be protected, the division may commence an investigation;

(3) Commence an immediate investigation if at any time during the family assessment and services approach the division determines that an investigation, as delineated in sections 210.109 to 210.183, is required. The division staff who have conducted the assessment may remain involved in the provision of services to the child and family;

(4) Document at the time the case is closed, the outcome of the family assessment and services approach, any service provided and the removal of risk to the child, if it existed.

14. Within thirty days of an oral report of abuse or neglect, the local office shall update the information in the information system. The information system shall contain, at a minimum, the determination made by the division as a result of the investigation, identifying information on the subjects of the report, those responsible for the care of the subject child and other relevant dispositional information. The division shall complete all investigations within thirty days, unless good cause for the failure to complete the investigation is documented in the information system. If a child involved in a pending investigation dies, the investigation shall remain open until the division's investigation surrounding the death is completed. If the investigation is not completed within thirty days, the information system shall be updated at regular intervals and upon the completion of the investigation. The information in the information system shall be updated to

reflect any subsequent findings, including any changes to the findings based on an administrative or judicial hearing on the matter.

15. A person required to report under section 210.115 to the division and any person making a report of child abuse or neglect made to the division which is not made anonymously shall be informed by the division of his or her right to obtain information concerning the disposition of his or her report. Such person shall receive, from the local office, if requested, information on the general disposition of his or her report. Such person may receive, if requested, findings and information concerning the case. Such release of information shall be at the discretion of the director based upon a review of the reporter's ability to assist in protecting the child or the potential harm to the child or other children within the family. The local office shall respond to the request within forty-five days. The findings shall be made available to the reporter within five days of the outcome of the investigation. If the report is determined to be unsubstantiated, the reporter may request that the report be referred by the division to the office of child advocate for children's protection and services established in sections 37.700 to 37.730, RSMo. Upon request by a reporter under this subsection, the division shall refer an unsubstantiated report of child abuse or neglect to the office of child advocate for children's protection and services.

**16. The division shall provide to any individual, who is not satisfied with the results of an investigation, information about the office of child advocate and the services it may provide under sections 37.700 to 37.730.**

17. In any judicial proceeding involving the custody of a child the fact that a report may have been made pursuant to sections 210.109 to 210.183 shall not be admissible. However:

(1) Nothing in this subsection shall prohibit the introduction of evidence from independent sources to support the allegations that may have caused a report to have been made; and

(2) The court may on its own motion, or shall if requested by a party to the proceeding, make an inquiry not on the record with the children's division to determine if such a report has been made. If a report has been made, the court may stay the custody proceeding until the children's division completes its investigation.

[17.] 18. In any judicial proceeding involving the custody of a child where the court determines that the child is in need of services pursuant to subdivision (d) of subsection 1 of section 211.031, RSMo, and has taken jurisdiction, the child's parent, guardian or custodian shall not be entered into the registry.

[18.] 19. The children's division is hereby granted the authority to promulgate rules and regulations pursuant to the provisions of section 207.021, RSMo, and chapter 536, RSMo, to carry out the provisions of sections 210.109 to 210.183.

[19.] 20. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void.

**210.152. REPORTS OF ABUSE OR NEGLECT — DIVISION TO RETAIN CERTAIN INFORMATION — CONFIDENTIAL, RELEASED ONLY TO AUTHORIZED PERSONS — REPORT REMOVAL, WHEN — NOTICE OF AGENCY'S DETERMINATION TO RETAIN OR REMOVE, SENT WHEN — CASE REOPENED, WHEN — ADMINISTRATIVE REVIEW OF DETERMINATION — DE NOVO JUDICIAL REVIEW. — 1. All identifying information, including telephone reports reported pursuant to section 210.145, relating to reports of abuse or neglect received by the division shall be retained by the division and removed from the records of the division as follows:**

(1) For investigation reports contained in the central registry, identifying information shall be retained by the division;

(2) (a) For investigation reports initiated against a person required to report pursuant to section 210.115, where insufficient evidence of abuse or neglect is found by the division and where the division determines the allegation of abuse or neglect was made maliciously, for purposes of harassment or in retaliation for the filing of a report by a person required to report, identifying information shall be expunged by the division within forty-five days from the conclusion of the investigation;

(b) For investigation reports, where insufficient evidence of abuse or neglect is found by the division and where the division determines the allegation of abuse or neglect was made maliciously, for purposes of harassment or in retaliation for the filing of a report, identifying information shall be expunged by the division within forty-five days from the conclusion of the investigation;

(c) For investigation reports initiated by a person required to report under section 210.115, where insufficient evidence of abuse or neglect is found by the division, identifying information shall be retained for five years from the conclusion of the investigation. For all other investigation reports where insufficient evidence of abuse or neglect is found by the division, identifying information shall be retained for two years from the conclusion of the investigation. Such reports shall include any exculpatory evidence known by the division, including exculpatory evidence obtained after the closing of the case. At the end of such time period, the identifying information shall be removed from the records of the division and destroyed;

(3) For reports where the division uses the family assessment and services approach, identifying information shall be retained by the division;

(4) For reports in which the division is unable to locate the child alleged to have been abused or neglected, identifying information shall be retained for ten years from the date of the report and then shall be removed from the records of the division.

2. Within ninety days after receipt of a report of abuse or neglect that is investigated, the alleged perpetrator named in the report and the parents of the child named in the report, if the alleged perpetrator is not a parent, shall be notified in writing of any determination made by the division based on the investigation. The notice shall advise either:

(1) That the division has determined by a probable cause finding prior to August 28, 2004, or by a preponderance of the evidence after August 28, 2004, that abuse or neglect exists and that the division shall retain all identifying information regarding the abuse or neglect; that such information shall remain confidential and will not be released except to law enforcement agencies, prosecuting or circuit attorneys, or as provided in section 210.150; that the alleged perpetrator has sixty days from the date of receipt of the notice to seek reversal of the division's determination through a review by the child abuse and neglect review board as provided in subsection 3 of this section; or

(2) That the division has not made a probable cause finding or determined by a preponderance of the evidence that abuse or neglect exists.

**3. The children's division may reopen a case for review at the request of the alleged perpetrator, the alleged victim, or the office of the child advocate if new, specific, and credible evidence is obtained that the division's decision was based on fraud or misrepresentation of material facts relevant to the division's decision and there is credible evidence that absent such fraud or misrepresentation the division's decision would have been different. If the alleged victim is under the age of eighteen, the request for review may be made by the alleged victim's parent, legal custodian, or legal guardian. All requests to reopen an investigation for review shall be made within a reasonable time and not more than one year after the children's division made its decision. The division shall not reopen a case for review based on any information which the person requesting the review knew, should have known, or could by the exercise of reasonable care have known**

before the date of the division's final decision in the case, unless the person requesting the review shows by a preponderance of the evidence that he or she could not have provided such information to the division before the date of the division's final decision in the case. Any person, other than the office of the child advocate, who makes a request to reopen a case for review based on facts which the person knows to be false or misleading or who acts in bad faith or with the intent to harass the alleged victim or perpetrator shall not have immunity from any liability, civil or criminal, for providing the information and requesting that the division reopen the investigation. Any person who makes a request to reopen an investigation based on facts which the person knows to be false shall be guilty of a class A misdemeanor. The children's division shall not reopen an investigation under any circumstances while the case is pending before a court of this state nor when a court has entered a final judgment after de novo judicial review pursuant to section 210.152.

4. Any person named in an investigation as a perpetrator who is aggrieved by a determination of abuse or neglect by the division as provided in this section may seek an administrative review by the child abuse and neglect review board pursuant to the provisions of section 210.153. Such request for review shall be made within sixty days of notification of the division's decision under this section. In those cases where criminal charges arising out of facts of the investigation are pending, the request for review shall be made within sixty days from the court's final disposition or dismissal of the charges.

[4.] 5. In any such action for administrative review, the child abuse and neglect review board shall sustain the division's determination if such determination was supported by evidence of probable cause prior to August 28, 2004, or is supported by a preponderance of the evidence after August 28, 2004, and is not against the weight of such evidence. The child abuse and neglect review board hearing shall be closed to all persons except the parties, their attorneys and those persons providing testimony on behalf of the parties.

[5.] 6. If the alleged perpetrator is aggrieved by the decision of the child abuse and neglect review board, the alleged perpetrator may seek de novo judicial review in the circuit court in the county in which the alleged perpetrator resides and in circuits with split venue, in the venue in which the alleged perpetrator resides, or in Cole County. If the alleged perpetrator is not a resident of the state, proper venue shall be in Cole County. The case may be assigned to the family court division where such a division has been established. The request for a judicial review shall be made within sixty days of notification of the decision of the child abuse and neglect review board decision. In reviewing such decisions, the circuit court shall provide the alleged perpetrator the opportunity to appear and present testimony. The alleged perpetrator may subpoena any witnesses except the alleged victim or the reporter. However, the circuit court shall have the discretion to allow the parties to submit the case upon a stipulated record.

[6.] 7. In any such action for administrative review, the child abuse and neglect review board shall notify the child or the parent, guardian or legal representative of the child that a review has been requested.

**210.915. DEPARTMENTAL COLLABORATION ON REGISTRY INFORMATION — RULEMAKING AUTHORITY.** — The department of corrections, the department of public safety, the department of social services, **the department of elementary and secondary education**, and the department of mental health shall collaborate with the department to compare records on child-care, elder-care, mental health, and personal-care workers, **including those individuals required to undergo a background check under the provisions of section 168.133**, and the records of persons with criminal convictions and the background checks pursuant to subdivisions (1) to (8) of subsection 2 of section 210.903, and to enter into any interagency agreements necessary to facilitate the receipt of such information and the ongoing updating of such information. The

department shall promulgate rules and regulations concerning such updating, including subsequent background reviews as listed in subsection 1 of section 210.909.

**210.922. USE OF REGISTRY INFORMATION BY CERTAIN DEPARTMENTS, WHEN.** — The department of health and senior services, department of mental health, **department of elementary and secondary education**, and department of social services may use the registry information to carry out the duties assigned to the department pursuant to this chapter and chapters **168**, 190, 195, 197, 198, 630, and 660, RSMo.

**556.037. TIME LIMITATIONS FOR PROSECUTIONS FOR SEXUAL OFFENSES INVOLVING A PERSON UNDER EIGHTEEN.** — Notwithstanding the provisions of section 556.036, prosecutions for unlawful sexual offenses involving a person eighteen years of age or under must be commenced within [twenty] **thirty** years after the victim reaches the age of eighteen unless the prosecutions are for forcible rape, attempted forcible rape, forcible sodomy, kidnapping, or attempted forcible sodomy in which case such prosecutions may be commenced at any time.

Approved July 14, 2011

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SB 55 [SS SB 55]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**Classifies sawmills and planning mills as agricultural and horticultural property for tax purposes.**

AN ACT to repeal section 137.016, RSMo, and to enact in lieu thereof one new section relating to classification of certain real property.

SECTION

- A. Enacting clause.  
137.016. Real property, subclasses of, defined — political subdivision may adjust operating levy to recoup revenue, when — reclassification to apply, when — placement of certain property within proper subclass, factors considered.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Section 137.016, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 137.016, to read as follows:

**137.016. REAL PROPERTY, SUBCLASSES OF, DEFINED — POLITICAL SUBDIVISION MAY ADJUST OPERATING LEVY TO RECOUP REVENUE, WHEN — RECLASSIFICATION TO APPLY, WHEN — PLACEMENT OF CERTAIN PROPERTY WITHIN PROPER SUBCLASS, FACTORS CONSIDERED.** — 1. As used in section 4(b) of article X of the Missouri Constitution, the following terms mean:

(1) "Agricultural and horticultural property", all real property used for agricultural purposes and devoted primarily to the raising and harvesting of crops; to the feeding, breeding and management of livestock which shall include breeding, showing, and boarding of horses; to dairying, or to any other combination thereof; and buildings and structures customarily associated with farming, agricultural, and horticultural uses. Agricultural and horticultural property shall also include land devoted to and qualifying for payments or other compensation under a soil

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conservation or agricultural assistance program under an agreement with an agency of the federal government. Agricultural and horticultural property shall further include land and improvements, exclusive of structures, on privately owned airports that qualify as reliever airports under the Nation Plan of Integrated Airports System, to receive federal airport improvement project funds through the Federal Aviation Administration. Real property classified as forest croplands shall not be agricultural or horticultural property so long as it is classified as forest croplands and shall be taxed in accordance with the laws enacted to implement section 7 of article X of the Missouri Constitution. **Agricultural and horticultural property shall also include any sawmill or planing mill defined in the U.S. Department of Labor's Standard Industrial Classification (SIC) Manual under Industry Group 242 with the SIC number 2421;**

(2) "Residential property", all real property improved by a structure which is used or intended to be used for residential living by human occupants, vacant land in connection with an airport, land used as a golf course, and manufactured home parks, but residential property shall not include other similar facilities used primarily for transient housing. For the purposes of this section, "transient housing" means all rooms available for rent or lease for which the receipts from the rent or lease of such rooms are subject to state sales tax pursuant to subdivision (6) of subsection 1 of section 144.020;

(3) "Utility, industrial, commercial, railroad and other real property", all real property used directly or indirectly, for any commercial, mining, industrial, manufacturing, trade, professional, business, or similar purpose, including all property centrally assessed by the state tax commission but shall not include floating docks, portions of which are separately owned and the remainder of which is designated for common ownership and in which no one person or business entity owns more than five individual units. All other real property not included in the property listed in subclasses (1) and (2) of section 4(b) of article X of the Missouri Constitution, as such property is defined in this section, shall be deemed to be included in the term "utility, industrial, commercial, railroad and other real property".

2. Pursuant to article X of the state constitution, any taxing district may adjust its operating levy to recoup any loss of property tax revenue, except revenues from the surtax imposed pursuant to article X, subsection 2 of section 6 of the constitution, as the result of changing the classification of structures intended to be used for residential living by human occupants which contain five or more dwelling units if such adjustment of the levy does not exceed the highest tax rate in effect subsequent to the 1980 tax year. For purposes of this section, loss in revenue shall include the difference between the revenue that would have been collected on such property under its classification prior to enactment of this section and the amount to be collected under its classification under this section. The county assessor of each county or city not within a county shall provide information to each taxing district within its boundaries regarding the difference in assessed valuation of such property as the result of such change in classification.

3. All reclassification of property as the result of changing the classification of structures intended to be used for residential living by human occupants which contain five or more dwelling units shall apply to assessments made after December 31, 1994.

4. Where real property is used or held for use for more than one purpose and such uses result in different classifications, the county assessor shall allocate to each classification the percentage of the true value in money of the property devoted to each use; except that, where agricultural and horticultural property, as defined in this section, also contains a dwelling unit or units, the farm dwelling, appurtenant residential-related structures and up to five acres immediately surrounding such farm dwelling shall be residential property, as defined in this section.

5. All real property which is vacant, unused, or held for future use; which is used for a private club, a not-for-profit or other nonexempt lodge, club, business, trade, service organization, or similar entity; or for which a determination as to its classification cannot be made under the definitions set out in subsection 1 of this section, shall be classified according to its immediate most suitable economic use, which use shall be determined after consideration of:

- (1) Immediate prior use, if any, of such property;
- (2) Location of such property;
- (3) Zoning classification of such property; except that, such zoning classification shall not be considered conclusive if, upon consideration of all factors, it is determined that such zoning classification does not reflect the immediate most suitable economic use of the property;
- (4) Other legal restrictions on the use of such property;
- (5) Availability of water, electricity, gas, sewers, street lighting, and other public services for such property;
- (6) Size of such property;
- (7) Access of such property to public thoroughfares; and
- (8) Any other factors relevant to a determination of the immediate most suitable economic use of such property.

6. All lands classified as forest croplands shall not, for taxation purposes, be classified as subclass (1), subclass (2), or subclass (3) real property, as such classes are prescribed in section 4(b) of article X of the Missouri Constitution and defined in this section, but shall be taxed in accordance with the laws enacted to implement section 7 of article X of the Missouri Constitution.

Approved July 13, 2011

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## SB 57 [HCS SCS SB 57]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**Requires courts to transfer certain cases upon the request of the public administrator.**

AN ACT to repeal sections 475.115 and 537.620, RSMo, and to enact in lieu thereof two new sections relating to public administrators.

### SECTION

- A. Enacting clause.
- 475.115. Appointment of successor guardian or conservator — transfer of case, procedure.
- 537.620. Political subdivisions may jointly create entity to provide insurance — entity created not deemed an insurance company or insurer.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 475.115 and 537.620, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 475.115 and 537.620, to read as follows:

**475.115. APPOINTMENT OF SUCCESSOR GUARDIAN OR CONSERVATOR — TRANSFER OF CASE, PROCEDURE.** — **1.** When a guardian or conservator dies, is removed by order of the court, or resigns and his **or her** resignation is accepted by the court, the court shall have the same authority as it has in like cases over personal representatives and their sureties and may appoint another guardian or conservator in the same manner and subject to the same requirements as are herein provided for an original appointment of a guardian or conservator.

**2. A public administrator may request transfer of any case to the jurisdiction of another county by filing a petition for transfer. If the receiving county meets the venue requirements of section 475.035 and the public administrator of the receiving county**

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consents to the transfer, the court shall transfer the case. The court with jurisdiction over the receiving county shall, without the necessity of any hearing required by section 475.075, appoint the public administrator of the receiving county as successor guardian and/or successor conservator and issue letters therein. In the case of a conservatorship, the final settlement of the public administrator's conservatorship shall be filed within thirty days of the court's transfer of the case, in the court with jurisdiction over the original conservatorship, and forwarded to the receiving county upon audit and approval.

**537.620. POLITICAL SUBDIVISIONS MAY JOINTLY CREATE ENTITY TO PROVIDE INSURANCE — ENTITY CREATED NOT DEEMED AN INSURANCE COMPANY OR INSURER. —** Notwithstanding any direct or implied prohibitions in chapter 375, 377, or 379, any three or more political subdivisions of this state may form a business entity for the purpose of providing liability and all other insurance, including insurance for elderly or low-income housing in which the political subdivision has an insurable interest, for any of the subdivisions upon the assessment plan as provided in sections 537.600 to 537.650. Any public governmental body or quasi-public governmental body, as defined in section 610.010, and any political subdivision of this state or any other state may join this entity and use public funds to pay any necessary assessments. Except for being subject to the regulation of the director of the department of insurance, financial institutions and professional registration under sections 375.930 to 375.948, sections 375.1000 to 375.1018, and sections 537.600 to 537.650, any such business entity shall not be deemed to be an insurance company or insurer under the laws of this state, and the coverage provided by such entity and the administration of such entity shall not be deemed to constitute the transaction of an insurance business. **Risk coverages procured under this section shall not be deemed to constitute a contract, purchase, or expenditure of public funds for which a public governmental body, quasi-public governmental body, or political subdivision is required to solicit competitive bids.**

Approved July 8, 2011

## SB 59 [CCS HCS SB 59]

**EXPLANATION —** Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

### **Modifies the Uniform Trust Code.**

AN ACT to repeal sections 404.710, 456.3-301, 456.5-505, 456.8-813, 469.411, 469.437, 469.459, 475.060, 475.061, 475.115, 482.305, and 482.315, RSMo, and to enact in lieu thereof forty-two new sections relating to judicial procedures.

#### SECTION

- A. Enacting clause.
- 34.376. Citation of act — definitions.
- 34.378. Contingent fee contracts, limitations — written proposals, when — standard addendum — posting of contracts on website — record-keeping requirements — report, contents.
- 34.380. Contractual authority not expanded.
- 404.710. Power of attorney with general powers.
- 456.3-301. Representation, basic effect — prohibited, when.
- 456.4-419. Distributions of income and principal of first trusts and second trusts, discretionary power of trustee — notice requirements.
- 456.5-505. Creditor's claim against settlor.
- 456.5-508. Attachment and judicial sale of trust property prohibited, when — definitions.
- 456.8-813. Duty to inform and report — inapplicable, when.
- 469.411. Determination of unitrust amount — definitions — exclusions to average net fair market value of assets — applicability of section to certain trusts — net income of trust to be unitrust amount, when.



- 469.437. Distributions allocated as income, when — definitions — balance allocated to principal, when — effect of separate accounts or funds — marital deduction, effect of.
- 469.459. Taxes to be paid from income or principal, when.
- 475.060. Application for guardianship — petition for guardianship requirements — incapacitated persons, petition requirements.
- 475.061. Application for conservatorship — may combine with petition for guardian of person.
- 475.115. Appointment of successor guardian or conservator — transfer of case, procedure.
- 475.501. Short title.
- 475.502. Definitions.
- 475.503. International application of act.
- 475.504. Communication between courts.
- 475.505. Cooperation between courts.
- 475.506. Taking testimony in another state.
- 475.521. Definitions — significant connection factors.
- 475.522. Exclusive basis.
- 475.523. Jurisdiction.
- 475.524. Special jurisdiction.
- 475.525. Exclusive and continuing jurisdiction.
- 475.526. Appropriate forum.
- 475.527. Jurisdiction declined by reason of conduct.
- 475.528. Notice of proceeding.
- 475.529. Proceedings in more than one state.
- 475.531. Transfer of guardianship or conservatorship to another state.
- 475.532. Accepting guardianship or conservatorship transferred from another state.
- 475.541. Registration of guardianship orders.
- 475.542. Registration of protective orders.
- 475.543. Effect of registration.
- 475.544. State law applicability.
- 475.551. Uniformity of application and construction.
- 475.552. Relation to Electronic Signatures in Global and National Commerce Act.
- 475.555. Effective date.
- 482.305. Jurisdiction of small claims court.
- 482.315. Procedure if amount of claim exceeds jurisdictional amount — amendment of claim in transferred action not to exceed jurisdictional amount of court to which transferred.
  - 1. Definition — property and interests in property, how held — death of settlor, effect of — marital property rights, effect on.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 404.710, 456.3-301, 456.5-505, 456.8-813, 469.411, 469.437, 469.459, 475.060, 475.061, 475.115, 482.305, and 482.315, RSMo, are repealed and forty-two new sections enacted in lieu thereof, to be known as sections 34.376, 34.378, 34.380, 404.710, 456.3-301, 456.4-419, 456.5-505, 456.5-508, 456.8-813, 469.411, 469.437, 469.459, 475.060, 475.061, 475.115, 475.501, 475.502, 475.503, 475.504, 475.505, 475.506, 475.521, 475.522, 475.523, 475.524, 475.525, 475.526, 475.527, 475.528, 475.529, 475.531, 475.532, 475.541, 475.542, 475.543, 475.544, 475.551, 475.552, 475.555, 482.305, and 482.315 and 1, to read as follows:

**34.376. CITATION OF ACT — DEFINITIONS. — 1.** Sections 34.376 to 34.380 may be known as the "Transparency in Private Attorney Contracts Act".

**2.** As used in sections 34.376 to 34.380, the following terms shall mean:

- (1) "Government attorney", an attorney employed by the state as an assistant attorney general;
- (2) "Private attorney", any private attorney or law firm;
- (3) "State", the state of Missouri, in any action instituted by the attorney general pursuant to section 27.060.

**34.378. CONTINGENT FEE CONTRACTS, LIMITATIONS — WRITTEN PROPOSALS, WHEN — STANDARD ADDENDUM — POSTING OF CONTRACTS ON WEBSITE — RECORD-KEEPING REQUIREMENTS — REPORT, CONTENTS. — 1.** The state shall not enter into a contingency

fee contract with a private attorney unless the attorney general makes a written determination prior to entering into such a contract that contingency fee representation is both cost-effective and in the public interest. Any written determination shall include specific findings for each of the following factors:

- (1) Whether there exists sufficient and appropriate legal and financial resources within the attorney general's office to handle the matter;
- (2) The time and labor required; the novelty, complexity, and difficulty of the questions involved; and the skill requisite to perform the attorney services properly;
- (3) The geographic area where the attorney services are to be provided; and
- (4) The amount of experience desired for the particular kind of attorney services to be provided and the nature of the private attorney's experience with similar issues or cases.

2. If the attorney general makes the determination described in subsection 1 of this section, the attorney general shall request written proposals from private attorneys to represent the state, unless the attorney general determines that requesting proposals is not feasible under the circumstances and sets forth the basis for this determination in writing. If a request for proposals is issued, the attorney general shall choose the lowest and best bid or request the office of administration establish an independent panel to evaluate the proposals and choose the lowest and best bid.

3. The state shall not enter into a contract for contingency fee attorney services unless the following requirements are met throughout the contract period and any extensions to the contract:

- (1) The government attorneys shall retain complete control over the course and conduct of the case;
- (2) A government attorney with supervisory authority shall oversee the litigation;
- (3) The government attorneys shall retain veto power over any decisions made by outside counsel;
- (4) A government attorney with supervisory authority for the case shall attend all settlement conferences; and
- (5) Decisions regarding settlement of the case shall be reserved exclusively to the discretion of the attorney general.

4. The attorney general shall develop a standard addendum to every contract for contingent fee attorney services that shall be used in all cases, describing in detail what is expected of both the contracted private attorney and the state, including, without limitation, the requirements listed in subsection 4 of this section.

5. Copies of any executed contingency fee contract and the attorney general's written determination to enter into a contingency fee contract with the private attorney shall be posted on the attorney general's website for public inspection within five business days after the date the contract is executed and shall remain posted on the website for the duration of the contingency fee contract, including any extensions or amendments to the contract. Any payment of contingency fees shall be posted on the attorney general's website within fifteen days after the payment of such contingency fees to the private attorney and shall remain posted on the website for at least three hundred sixty-five days.

6. Any private attorney under contract to provide services to the state on a contingency fee basis shall, from the inception of the contract until at least four years after the contract expires or is terminated, maintain detailed current records, including documentation of all expenses, disbursements, charges, credits, underlying receipts and invoices, and other financial transactions that concern the provision of such attorney services. The private attorney shall maintain detailed contemporaneous time records for the attorneys and paralegals working on the matter in increments of no greater than one tenth of an hour and shall promptly provide these records to the attorney general, upon

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request. Any request under chapter 610 for inspection and copying of such records shall be served upon and responded to by the attorney general's office.

7. By February first of each year, the attorney general shall submit a report to the president pro tem of the senate and the speaker of the house of representatives describing the use of contingency fee contracts with private attorneys in the preceding calendar year. At a minimum, the report shall:

(1) Identify all new contingency fee contracts entered into during the year and all previously executed contingency fee contracts that remain current during any part of the year, and for each contract describe:

(a) The name of the private attorney with whom the department has contracted, including the name of the attorney's law firm;

(b) The nature and status of the legal matter;

(c) The name of the parties to the legal matter;

(d) The amount of any recovery; and

(e) The amount of any contingency fee paid.

(2) Include copies of any written determinations made under subsections 1 and 2 of this section.

**34.380. CONTRACTUAL AUTHORITY NOT EXPANDED.** — Nothing in sections 34.376 to 34.380 shall be construed to expand the authority of any state agency or state agent to enter into contracts where no such authority previously existed.

**404.710. POWER OF ATTORNEY WITH GENERAL POWERS.** — 1. A principal may delegate to an attorney in fact in a power of attorney general powers to act in a fiduciary capacity on the principal's behalf with respect to all lawful subjects and purposes or with respect to one or more express subjects or purposes. A power of attorney with general powers may be durable or not durable.

2. If the power of attorney states that general powers are granted to the attorney in fact and further states in substance that it grants power to the attorney in fact to act with respect to all lawful subjects and purposes or that it grants general powers for general purposes or does not by its terms limit the power to the specific subject or purposes set out in the instrument, then the authority of the attorney in fact acting under the power of attorney shall extend to and include each and every action or power which an adult who is nondisabled and nonincapacitated may carry out through an agent specifically authorized in the premises, with respect to any and all matters whatsoever, except as provided in subsections 6 and 7 of this section. When a power of attorney grants general powers to an attorney in fact to act with respect to all lawful subjects and purposes, the enumeration of one or more specific subjects or purposes does not limit the general authority granted by that power of attorney, unless otherwise provided in the power of attorney.

3. If the power of attorney states that general powers are granted to an attorney in fact with respect to one or more express subjects or purposes for which general powers are conferred, then the authority of the attorney in fact acting under the power of attorney shall extend to and include each and every action or power, but only with respect to the specific subjects or purposes expressed in the power of attorney that an adult who is nondisabled and nonincapacitated may carry out through an agent specifically authorized in the premises, with respect to any and all matters whatsoever, except as provided in subsections 6 and 7 of this section.

4. Except as provided in subsections 6 and 7 of this section, an attorney in fact with general powers has, with respect to the subjects or purposes for which the powers are conferred, all rights, power and authority to act for the principal that the principal would have with respect to his or her own person or property, including property owned jointly or by the entireties with another or others, as a nondisabled and nonincapacitated adult; and without limiting the foregoing has with respect to the subjects or purposes of the power complete discretion to make a decision for the principal,

to act or not act, to consent or not consent to, or withdraw consent for, any act, and to execute and deliver or accept any deed, bill of sale, bill of lading, assignment, contract, note, security instrument, consent, receipt, release, proof of claim, petition or other pleading, tax document, notice, application, acknowledgment or other document necessary or convenient to implement or confirm any act, transaction or decision. An attorney in fact with general powers, whether power to act with respect to all lawful subjects and purposes, or only with respect to one or more express subjects or purposes, shall have the power, unless specifically denied by the terms of the power of attorney, to make, execute and deliver to or for the benefit of or at the request of a third person, who is requested to rely upon an action of the attorney in fact, an agreement indemnifying and holding harmless any third person or persons from any liability, claims or expenses, including legal expenses, incurred by any such third person by reason of acting or refraining from acting pursuant to the request of the attorney in fact, and such indemnity agreement shall be binding upon the principal who has executed such power of attorney and upon the principal's successor or successors in interest. No such indemnity agreement shall protect any third person from any liability, claims or expenses incurred by reason of the fact that, and to the extent that, the third person has honored the power of attorney for actions outside the scope of authority granted by the power of attorney. In addition, the attorney in fact has complete discretion to employ and compensate real estate agents, brokers, attorneys, accountants and subagents of all types to represent and act for the principal in any and all matters, including tax matters involving the United States government or any other government or taxing entity, including, but not limited to, the execution of supplemental or additional powers of attorney in the name of the principal in form that may be required or preferred by any such taxing entity or other third person, and to deal with any or all third persons in the name of the principal without limitation. No such supplemental or additional power of attorney shall broaden the scope of authority granted to the attorney in fact in the original power of attorney executed by the principal.

5. An attorney in fact, who is granted general powers for all subjects and purposes or with respect to any express subjects or purposes, shall exercise the powers conferred according to the principal's instructions, in the principal's best interest, in good faith, prudently and in accordance with sections 404.712 and 404.714.

6. Any power of attorney, whether durable or not durable, and whether or not it grants general powers for all subjects and purposes or with respect to express subjects or purposes, shall be construed to grant power or authority to an attorney in fact to carry out any of the actions described in this subsection if the actions are expressly enumerated and authorized in the power of attorney. Any power of attorney may grant power of authority to an attorney in fact to carry out any of the following actions if the actions are expressly authorized in the power of attorney:

- (1) To execute, amend or revoke any trust agreement;
  - (2) To fund with the principal's assets any trust not created by the principal;
  - (3) To make or revoke a gift of the principal's property in trust or otherwise;
  - (4) To disclaim a gift or devise of property to or for the benefit of the principal;
  - (5) To create or change survivorship interests in the principal's property or in property in which the principal may have an interest; provided, however, that the inclusion of the authority set out in this [paragraph] **subdivision** shall not be necessary in order to grant to an attorney in fact acting under a power of attorney granting general powers with respect to all lawful subjects and purposes the authority to withdraw funds or other property from any account, contract or other similar arrangement held in the names of the principal and one or more other persons with any financial institution, brokerage company or other depository to the same extent that the principal would be authorized to do if the principal were present, not disabled or incapacitated, and seeking to act in the principal's own behalf;
  - (6) To designate or change the designation of beneficiaries to receive any property, benefit or contract right on the principal's death;
  - (7) To give or withhold consent to an autopsy or postmortem examination;
-

(8) To make [a] **an anatomical** gift of, or [decline to make a] **prohibit an anatomical** gift of, **all or part of** the principal's body [parts] under the **Revised** Uniform Anatomical Gift Act or **to exercise the right of sepulcher over the principal's body under section 194.119;**

(9) To nominate a guardian or conservator for the principal; and if so stated in the power of attorney, the attorney in fact may nominate himself as such;

(10) To give consent to or prohibit any type of health care, medical care, treatment or procedure to the extent authorized by sections 404.800 to 404.865; or

(11) To designate one or more substitute or successor or additional attorneys in fact.

7. No power of attorney, whether durable or not durable, and whether or not it delegates general powers, may delegate or grant power or authority to an attorney in fact to do or carry out any of the following actions for the principal:

(1) To make, publish, declare, amend or revoke a will for the principal;

(2) To make, execute, modify or revoke a living will declaration for the principal;

(3) To require the principal, against his or her will, to take any action or to refrain from taking any action; or

(4) To carry out any actions specifically forbidden by the principal while not under any disability or incapacity.

8. A third person may freely rely on, contract and deal with an attorney in fact delegated general powers with respect to the subjects and purposes encompassed or expressed in the power of attorney without regard to whether the power of attorney expressly identifies the specific property, account, security, storage facility or matter as being within the scope of a subject or purpose contained in the power of attorney, and without regard to whether the power of attorney expressly authorizes the specific act, transaction or decision by the attorney in fact.

9. It is the policy of this state that an attorney in fact acting pursuant to the provisions of a power of attorney granting general powers shall be accorded the same rights and privileges with respect to the personal welfare, property and business interests of the principal, and if the power of attorney enumerates some express subjects or purposes, with respect to those subjects or purposes, as if the principal himself or herself were personally present and acting or seeking to act; and any provision of law and any purported waiver, consent or agreement executed or granted by the principal to the contrary shall be void and unenforceable.

10. Sections 404.700 to 404.735 shall not be construed to preclude any person or business enterprise from providing in a contract with the principal as to the procedure that thereafter must be followed by the principal or the principal's attorney in fact in order to give a valid notice to the person or business enterprise of any modification or termination of the appointment of an attorney in fact by the principal; and any such contractual provision for notice shall be valid and binding on the principal and the principal's successors so long as such provision is reasonably capable of being carried out.

**456.3-301. REPRESENTATION, BASIC EFFECT — PROHIBITED, WHEN.** — 1. Notice to a person who may represent and bind another person under sections 456.3-301 to 456.3-305 has the same effect as if notice were given directly to the other person.

2. The consent of a person who may represent and bind another person under sections 456.3-301 to 456.3-305 is binding on the person represented unless the person represented objects to the representation before the consent would otherwise have become effective. **Except that, such consent is binding on the person represented regardless of whether the person represented objects under this subsection, if the person who may represent and bind is:**

(1) **The holder of a testamentary power of appointment described in section 456.3-302 and the interests of the person represented are subject to the power;**

(2) **The conservator, conservator ad litem, or guardian described in subdivisions (1), (2), or (3) of section 456.3-303 and the person represented is disabled; or**

(3) A parent described in subdivision (4) of section 456.3-303 and the person represented is a minor or unborn child of the parent.

3. Except as otherwise provided in sections 456.4A-411 and 456.6-602, a person who under sections 456.3-301 to 456.3-305 may represent a settlor who lacks capacity may receive notice and give a binding consent on the settlor's behalf.

4. A settlor may not represent and bind a beneficiary under sections 456.3-301 to 456.3-305 with respect to the termination or modification of a trust under section 456.4A-411.

**456.4-419. DISTRIBUTIONS OF INCOME AND PRINCIPAL OF FIRST TRUSTS AND SECOND TRUSTS, DISCRETIONARY POWER OF TRUSTEE — NOTICE REQUIREMENTS. — 1.** Unless the terms of the trust instrument expressly provide otherwise, a trustee who has discretionary power under the terms of a trust to make a distribution of income or principal, whether or not limited by an ascertainable standard, to or for the benefit of one or more beneficiaries of a trust, the "first trust", may instead exercise such discretionary power by appointing all or part of the income or principal subject to such discretionary power in favor of a trustee of a second trust, the "second trust", created under either the same or different trust instrument in the event that the trustee of the first trust decides that the appointment is necessary or desirable after taking into account the terms and purposes of the first trust, the terms and purposes of the second trust, and the consequences of the distribution.

2. The following provisions apply to any exercise of the authority granted by subsection 1 of this section:

(1) The second trust may have as beneficiaries only one or more of those beneficiaries of the first trust to or for whom any discretionary distribution may be made from the first trust and who are proper objects of the exercise of the power, or one or more of those other beneficiaries of the first trust to or for whom a distribution of income or principal may have been made in the future from the first trust at a time or upon the happening of an event specified under the first trust;

(2) Unless the exercise of such power is limited by an ascertainable standard, no trustee of the first trust may exercise such authority to make a distribution from the first trust if:

(a) Such trustee is a beneficiary of the first trust; or

(b) Any beneficiary may remove and replace the trustee of the first trust with a related or subordinate party to such beneficiary within the meaning of Section 672(c) of the Internal Revenue Code;

(3) Except if participating in a change that is needed for a distribution to any such beneficiary under an ascertainable standard, no trustee shall exercise such authority to the extent that doing so would have the effect either of:

(a) Increasing the distributions that can be made in the future from the second trust to the trustee of the first trust or to a beneficiary who can remove and replace the trustee of the first trust with a related or subordinate party to such beneficiary within the meaning of Section 672(c) of the Internal Revenue Code; or

(b) Removing restrictions on discretionary distributions imposed by the instrument under which the first trust was created;

(4) In the case of any trust contributions which have been treated as gifts qualifying for the exclusion from gift tax described in Section 2503(b) of the Internal Revenue Code, by reason of the application of Section 2503(c), the governing instrument for the second trust shall provide that the beneficiary's remainder interest shall vest no later than the date upon which such interest would have vested under the terms of the governing instrument for the first trust;

(5) The exercise of such authority may not reduce any income interest of any income beneficiary of any of the following trusts:

(a) A trust for which a marital deduction has been taken for federal tax purposes under Section 2056 or 2523 of the Internal Revenue Code or for state tax purposes under any comparable provision of applicable state law;

(b) A charitable remainder trust under Section 664 of the Internal Revenue Code;

(c) A grantor retained annuity trust under Section 2702 of the Internal Revenue Code; or

(d) A trust which has been qualified as a Subchapter S trust under Section 1361(d) of the Internal Revenue Code or an electing small business trust under Section 1361(e) of the Internal Revenue Code;

(6) The exercise of such authority does not apply to trust property subject to a presently exercisable power of withdrawal held by a trust beneficiary to whom, or for the benefit of whom, the trustee has authority to make distributions, unless after the exercise of such authority, such beneficiary's power of withdrawal is unchanged with respect to the trust property; and

(7) A spendthrift clause or a provision in the trust instrument that prohibits amendment or revocation of the trust shall not preclude the trustee from exercising the authority granted by subsection 1 of this section.

3. At least sixty days prior to making a discretionary distribution under subsection 1 of this section, the trustee of the first trust shall notify the permissible distributees of the second trust, or the qualified beneficiaries of the second trust if there are no permissible distributees of the second trust, of the distribution. A beneficiary may waive the right to the notice required by this subsection and, with respect to future distributions, may withdraw a waiver previously given.

4. In exercising the authority granted by subsection 1 of this section, the trustee shall remain subject to all fiduciary duties otherwise imposed under the trust instrument and Missouri law.

5. This section does not impose on a trustee a duty to exercise the authority granted by subsection 1 of this section in favor of another trust or to consider exercising such authority in favor of another trust.

6. This section is intended to codify and, from and after enactment, to provide certain limitations to the common law of this state, and this section applies to any trust governed by the laws of this state, including a trust whose principal place of administration is transferred to this state before or after the enactment of this section.

**456.5-505. CREDITOR'S CLAIM AGAINST SETTLOR.** — 1. Whether or not the terms of a trust contain a spendthrift provision, during the lifetime of the settlor, the property of a revocable trust is subject to claims of the settlor's creditors.

2. With respect to an irrevocable trust without a spendthrift provision, a creditor or assignee of the settlor may reach the maximum amount that can be distributed to or for the settlor's benefit. If a trust has more than one settlor, the amount the creditor or assignee of a particular settlor may reach may not exceed the settlor's interest in the portion of the trust attributable to that settlor's contribution.

3. With respect to an irrevocable trust with a spendthrift provision, a spendthrift provision will prevent the settlor's creditors from satisfying claims from the trust assets except:

(1) Where the conveyance of assets to the trust was fraudulent as to creditors pursuant to the provisions of chapter 428; or

(2) To the extent of the settlor's beneficial interest in the trust assets, if at the time the trust became irrevocable:

(a) The settlor was the sole beneficiary of either the income or principal of the trust or retained the power to amend the trust; or

(b) The settlor was one of a class of beneficiaries and retained a right to receive a specific portion of the income or principal of the trust that was determinable solely from the provisions of the trust instrument.

**4. In the event that a trust meets the requirements set forth in subsection 3 of this section, a settlor's creditors may not reach the settlor's beneficial interest in that trust regardless of any testamentary power of appointment retained by the settlor that is exercisable by the settlor in favor of any appointees other than the settlor, the settlor's estate, the settlor's creditors, or the creditors of the settlor's estate.**

**5.** Any trustee who has a duty or power to pay the debts of a deceased settlor may publish a notice in a newspaper published in the county designated in subdivision (3) of this subsection once a week for four consecutive weeks in substantially the following form:

To all persons interested in the estate of ....., decedent. The undersigned ..... is acting as Trustee under a trust the terms of which provide that the debts of the decedent may be paid by the Trustee(s) upon receipt of proper proof thereof. The address of the Trustee is ..... All creditors of the decedent are noticed to present their claims to the undersigned within six (6) months from the date of the first publication of this notice or be forever barred.

.....  
Trustee

(1) If such publication is duly made by the trustee, any debts not presented to the trustee within six months from the date of the first publication of the preceding notice shall be forever barred as against the trustee and the trust property.

(2) A trustee shall not be liable to account to the decedent's personal representative under the provisions of section 461.300 by reason of any debt barred under the provisions of this subsection.

(3) Such publication shall be in a newspaper published in:

(a) The county in which the domicile of the settlor at the time of his or her death is situated;

(b) If the settlor had no domicile in this state at the time of his or her death, any county wherein trust assets are located; except that, when the major part of the trust assets in this state consist of real estate, the notice shall be published in the county in which the real estate or the major part thereof is located; or

(c) If the settlor had no domicile in this state at the time of his or her death and no trust assets are located therein, the county wherein the principal place of administration of the trust is located.

(4) For purposes of this subsection, the term "domicile" means the place in which the settlor voluntarily fixed his or her abode, not for a mere special or temporary purpose, but with a present intention of remaining there permanently or for an indefinite term.

[5.] **6.** For purposes of this section:

(1) During the period the power may be exercised, the holder of a power of withdrawal is treated in the same manner as the settlor of a revocable trust to the extent of the property subject to the power; and

(2) Upon the lapse, release, or waiver of the power, the holder is treated as the settlor of the trust only to the extent the value of the property affected by the lapse, release, or waiver exceeds the greater of the amount specified in Sections 2041(b)(2), 2514(e) or 2503(b) of the Internal Revenue Code.

[6.] **7.** This section shall not apply to a spendthrift trust described, defined, or established in section 456.014.

**456.5-508. ATTACHMENT AND JUDICIAL SALE OF TRUST PROPERTY PROHIBITED, WHEN — DEFINITIONS. — 1. A creditor or other claimant of a beneficiary or other person holding a special power of appointment or a testamentary general power of appointment may not attach trust property or beneficial interests subject to the power, obtain an order**



from a court forcing a judicial sale of the trust property, compel the exercise of the power, or reach the trust property or beneficial interests by any other means.

2. This section shall not limit the ability of a creditor or other claimant to reach a beneficial interest as otherwise provided in sections 456.5-501 to 456.5-507.

3. In this section "special power of appointment" means a power of appointment exercisable in favor of one or more appointees other than the holder, the holder's estate, the holder's creditors, or the creditors of the holder's estate, and a "testamentary general power of appointment" means a power of appointment exercisable at the death of the holder, without the consent of the creator of the power or of a person holding an adverse interest in favor of the holder, the holder's estate, the holder's creditors, or the creditors of the holder's estate.

**456.8-813. DUTY TO INFORM AND REPORT — INAPPLICABLE, WHEN.** — 1. (1) A trustee shall keep the qualified beneficiaries of the trust reasonably informed about the administration of the trust and of the material facts necessary for them to protect their interests. A trustee shall be presumed to have fulfilled this duty if the trustee complies with the notice and information requirements prescribed in subsections 2 to 7 of this section.

(2) Unless unreasonable under the circumstances, a trustee shall promptly respond to a beneficiary's request for information related to the administration of the trust.

2. A trustee:

(1) upon request of a beneficiary, shall promptly furnish to the beneficiary a copy of the trust instrument;

(2) within [60] **one hundred and twenty** days after accepting a trusteeship, shall notify the qualified beneficiaries of the acceptance and of the trustee's name, address, and telephone number;

(3) within [sixty] **one hundred and twenty** days after the date the trustee acquires knowledge of the creation of an irrevocable trust, or the date the trustee acquires knowledge that a formerly revocable trust has become irrevocable, whether by the death of the settlor or otherwise, shall notify the qualified beneficiaries of the trust's existence, of the identity of the settlor or settlors, of the right to request a copy of the trust instrument, and of the right to a trustee's report as provided in subsection 3 of this section; and

(4) shall notify the qualified beneficiaries in advance of any change in the method or rate of the trustee's compensation.

3. A trustee shall send to the permissible distributees of trust income or principal, and to other beneficiaries who request it, at least annually and at the termination of the trust, a report of the trust property, liabilities, receipts, and disbursements, including the source and amount of the trustee's compensation, a listing of the trust assets and, if feasible, their respective market values. Upon a vacancy in a trusteeship, unless a cotrustee remains in office, a report must be sent to the qualified beneficiaries by the former trustee. A personal representative, conservator, or guardian may send the qualified beneficiaries a report on behalf of a deceased or incapacitated trustee.

4. A beneficiary may waive the right to a trustee's report or other information otherwise required to be furnished under this section. A beneficiary, with respect to future reports and other information, may withdraw a waiver previously given.

5. A trustee may charge a reasonable fee to a beneficiary for providing information under this section.

6. The request of any beneficiary for information under any provision of this section shall be with respect to a single trust that is sufficiently identified to enable the trustee to locate the records of the trust.

7. If the trustee is bound by any confidentiality restrictions with respect to an asset of a trust, any beneficiary who is eligible to receive information pursuant to this section about such asset shall agree to be bound by the confidentiality restrictions that bind the trustee before receiving such information from the trustee.

8. This section does not apply to a trust created under a trust instrument that became irrevocable before January 1, 2005, and the law in effect prior to January 1, 2005, regarding the subject matter of this section shall continue to apply to those trusts.

**469.411. DETERMINATION OF UNITRUST AMOUNT — DEFINITIONS — EXCLUSIONS TO AVERAGE NET FAIR MARKET VALUE OF ASSETS — APPLICABILITY OF SECTION TO CERTAIN TRUSTS — NET INCOME OF TRUST TO BE UNITRUST AMOUNT, WHEN. — 1.** If the provisions of this section apply to a trust, the unitrust amount [shall be determined as follows:] **determined for each accounting year of the trust shall be a percentage between three and five percent of the average net fair market value of the trust, as of the first day of the trust's current accounting year. The percentage applicable to a trust shall be that percentage specified by the terms of the governing instrument or by the election made in accordance with subdivision (2) of subsection 5 of this section.**

(1) [For the first three accounting periods of the trust, the unitrust amount for a current valuation year of the trust shall be a percentage between three and five percent that is specified by the terms of the governing instrument or by the election made in accordance with subdivision (2) of subsection 5 of this section, of the net fair market values of the assets held in the trust on the first business day of the current valuation year;

(2) Beginning with the fourth accounting period of the trust, the unitrust amount for a current valuation year of the trust shall be a percentage between three and five percent that is specified by the terms of the governing instrument or by the election made in accordance with subdivision (2) of subsection 5 of this section, of the average of the net fair market values of the assets held in the trust on the first business day of the current valuation year and the net fair market values of the assets held in the trust on the first business day of each prior valuation year, regardless of whether this section applied to the ascertainment of net income for all valuation years;

(3)] The unitrust amount for the current [valuation] **accounting** year computed pursuant to [subdivision (1) or (2) of this subsection] **this section** shall be proportionately reduced for any distributions, in whole or in part, other than distributions of the unitrust amount, and for any payments of expenses, including debts, disbursements and taxes, from the trust within a current [valuation] **accounting** year that the trustee determines to be material and substantial, and shall be proportionately increased for the receipt, other than a receipt that represents a return on investment, of any additional property into the trust within a current [valuation] **accounting** year;

[(4)] (2) For purposes of [subdivision (2) of this subsection] **this section**, the net fair market values of the assets held in the trust on the first business day of a prior [valuation year] **accounting quarter** shall be adjusted to reflect any reduction, in the case of a distribution or payment, or increase, in the case of a receipt, for the prior [valuation] **accounting** year pursuant to subdivision [(3)] (1) of this subsection, as if the distribution, payment or receipt had occurred on the first day of the prior [valuation] **accounting** year;

[(5)] (3) In the case of a short accounting period, the trustee shall prorate the unitrust amount on a daily basis;

[(6)] (4) In the case where the net fair market value of an asset held in the trust has been incorrectly determined [either in a current valuation year or in a prior valuation year] **in any quarter**, the unitrust amount shall be increased in the case of an undervaluation, or be decreased in the case of an overvaluation, by an amount equal to the difference between the unitrust amount determined based on the correct valuation of the asset and the unitrust amount originally determined.

2. As used in this section, the following terms mean:

(1) **"Average net fair market value"**, a rolling average of the fair market value of the assets held in the trust on the first business day of the lessor of the number of accounting quarters of the trust from the date of inception of the trust to the determination of the

**trust's average net fair market value, or twelve accounting quarters of the trust, regardless of whether this section applied to the ascertainment of net income for all valuation quarters;**

(2) "Current [valuation] **accounting** year", the accounting period of the trust for which the unitrust amount is being determined[;

(2) "Prior valuation year", each of the two accounting periods of the trust immediately preceding the current valuation year].

3. In determining the [sum of the] **average** net fair market [values] **value** of the assets held in the trust [for purposes of subdivisions (1) and (2) of subsection 1 of this section], there shall not be included the value of:

(1) Any residential property or any tangible personal property that, as of the first business day of the current valuation year, one or more income beneficiaries of the trust have or had the right to occupy, or have or had the right to possess or control, other than in a capacity as trustee, and instead the right of occupancy or the right to possession or control shall be deemed to be the unitrust amount with respect to the residential property or the tangible personal property; or

(2) Any asset specifically given to a beneficiary under the terms of the trust and the return on investment on that asset, which return on investment shall be distributable to the beneficiary.

4. In determining the **average** net fair market value of [each asset] **the assets** held in the trust pursuant to [subdivisions (1) and (2) of] subsection 1 of this section, the trustee shall, not less often than annually, determine the fair market value of each asset of the trust that consists primarily of real property or other property that is not traded on a regular basis in an active market by appraisal or other reasonable method or estimate, and that determination, if made reasonably and in good faith, shall be conclusive as to all persons interested in the trust. Any claim based on a determination made pursuant to this subsection shall be barred if not asserted in a judicial proceeding brought by any beneficiary with any interest whatsoever in the trust within two years after the trustee has sent a report to all qualified beneficiaries that adequately discloses the facts constituting the claim. The rules set forth in subsection 2 of section 469.409 shall apply to the barring of claims pursuant to this subsection.

5. This section shall apply to the following trusts:

(1) Any trust created after August 28, 2001, with respect to which the terms of the trust clearly manifest an intent that this section apply;

(2) Any trust created under an instrument that became irrevocable on, before, or after August 28, 2001, if the trustee, in the trustee's discretion, elects to have this section apply unless the instrument creating the trust specifically prohibits an election under this subdivision. The trustee shall deliver notice to all qualified beneficiaries and the settlor of the trust, if he or she is then living, of the trustee's intent to make such an election at least sixty days before making that election. The trustee shall have sole authority to make the election. Section 469.402 shall apply for all purposes of this subdivision. An action or order by any court shall not be required. The election shall be made by a signed writing delivered to the settlor of the trust, if he or she is then living, and to all qualified beneficiaries. The election is irrevocable, unless revoked by order of the court having jurisdiction of the trust. The election may specify the percentage used to determine the unitrust amount pursuant to this section, provided that such percentage is between three and five percent, or if no percentage is specified, then that percentage shall be three percent. In making an election pursuant to this subsection, the trustee shall be subject to the same limitations and conditions as apply to an adjustment between income and principal pursuant to subsections 3 and 4 of section 469.405; **and**

(3) No action of any kind based on an election made by a trustee pursuant to subdivision (2) of this subsection shall be brought against the trustee by any beneficiary of that trust three years from the effective date of that election[;

(4) If this section is made applicable under this subdivision to an institutional endowment fund, as defined in section 402.130, the restrictions contained in section 402.134 shall not apply to the extent payment of a unitrust amount would otherwise be prohibited].

**6. (1) Once the provisions of this section become applicable to a trust, the net income of the trust shall be the unitrust amount.**

**(2) Unless otherwise provided by the governing instrument, the unitrust amount distributed each year shall be paid from the following sources for that year up to the full value of the unitrust amount in the following order:**

- (a) Net income as determined if the trust were not a unitrust;**
- (b) Other ordinary income as determined for federal income tax purposes;**
- (c) Assets of the trust principal for which there is a readily available market value;**

**and**

- (d) Other trust principal.**

**(3) Additionally, the trustee may allocate to trust income for each taxable year of the trust, or portion thereof:**

**(a) Net short-term capital gain described in the Internal Revenue Code, 26 U.S.C. Section 1222(5), for such year, or portion thereof, but only to the extent that the amount so allocated together with all other amounts to trust income, as determined under the provisions of this chapter without regard to this section, for such year, or portion thereof, does not exceed the unitrust amount for such year, or portion thereof;**

**(b) Net long-term capital gain described in the Internal Revenue Code, 26 U.S.C. Section 1222(7), for such year, or portion thereof, but only to the extent that the amount so allocated together with all other amounts, including amounts described in paragraph (a) of this subdivision, allocated to trust income for such year, or portion thereof, does not exceed the unitrust amount for such year, or portion thereof.**

**7. A trust with respect to which this section applies on August 28, 2011, may calculate the unitrust amount in accordance with the provisions of this section, as it existed either before or after such date, as the trustee of such trust shall determine in a writing kept with the records of the trust in the trustee's discretion.**

**469.437. DISTRIBUTIONS ALLOCATED AS INCOME, WHEN — DEFINITIONS — BALANCE ALLOCATED TO PRINCIPAL, WHEN — EFFECT OF SEPARATE ACCOUNTS OR FUNDS — MARITAL DEDUCTION, EFFECT OF.— 1. As used in this section, the following terms mean:**

**(1) "Payment", an amount that is:**

- (a) Received or withdrawn from a plan; or**
- (b) One of a series of distributions that have been or will be received over a fixed number of years or during the life of one or more individuals under any contractual or other arrangement, or is a single payment from a plan that the trustee could have received over a fixed number of years or during the life of one or more individuals;**

**(2) "Plan", a contractual, custodial, trust or other arrangement that provides for distributions to the trust, including, but not limited to, qualified retirement plans, Individual Retirement Accounts, Roth Individual Retirement Accounts, public and private annuities, and deferred compensation, including payments received directly from an entity as defined in section 469.423 regardless of whether or not such distributions are made from a specific fund or account.**

**2. If any portion of a payment is characterized as a distribution to the trustee of interest, dividends or a dividend equivalent, the trustee shall allocate the portion so characterized to income. The trustee shall allocate the balance of that payment to principal.**

**3. If no part of a payment is allocated to income pursuant to subsection 2 of this section, then for each accounting period of the trust that any payment is received by the trust with respect to the trust's interest in a plan, the trustee shall allocate to income that portion of the aggregate value of all payments received by the trustee in that accounting period equal to the amount of plan income**

attributable to the trust's interest in the plan for that calendar year. The trustee shall allocate the balance of that payment to principal.

4. For purposes of this section, if a payment is received from a plan that maintains a separate account or fund for its participants or account holders, including, but not limited to, defined contribution retirement plans, Individual Retirement Accounts, Roth Individual Retirement Accounts, and some types of deferred compensation plans, the phrase "plan income" shall mean either the amount of the plan account or fund held for the benefit of the trust that, if the plan account or fund were a trust, would be allocated to income pursuant to sections 469.401 to 469.467 for that accounting period, or four percent of the value of the plan account or fund on the first day of that accounting period. The method of determining plan income pursuant to this subsection shall be chosen by the trustee in the trustee's discretion. The trustees may change the method of determining plan income pursuant to this subsection for any future accounting period.

5. For purposes of this section if the payment is received from a plan that does not maintain a separate account or fund for its participants or account holders, including by way of example and not limitation defined benefit retirement plans and some types of deferred compensation plans, the term "plan income" shall mean four percent of the total present value of the trust's interest in the plan as of the first day of the accounting period, based on reasonable actuarial assumptions as determined by the trustee.

6. **Notwithstanding subsections 1 to 5 of this section, with respect to a trust where an election to qualify for a marital deduction under Section 2056(b)(7) or Section 2523(f) of the Internal Revenue Code of 1986, as amended, has been made, or a trust that qualified for the marital deduction under either Section 2056(b)(5) or Section 2523(e) of the Internal Revenue Code of 1986, as amended, a trustee shall determine the plan income for the accounting period as if the plan were a trust subject to sections 469.401 to 469.467. Upon request of the surviving spouse, the trustee shall demand that the person administering the plan distribute the plan income to the trust. The trustee shall allocate a payment from the plan to income to the extent of the plan income and distribute that amount to the surviving spouse. The trustee shall allocate the balance of the payment to principal. Upon request of the surviving spouse, the trustee shall allocate principal to income to the extent the plan income exceeds payments made from the plan to the trust during the accounting period.**

7. If, to obtain an estate or gift tax marital deduction for a trust, a trustee shall allocate more of a payment to income than provided for by this section, the trustee shall allocate to income the additional amount necessary to obtain the marital deduction.

**469.459. TAXES TO BE PAID FROM INCOME OR PRINCIPAL, WHEN.** — 1. A tax required to be paid by a trustee based on receipts allocated to income shall be paid from income.

2. A tax required to be paid by a trustee based on receipts allocated to principal shall be paid from principal, even if the tax is called an income tax by the taxing authority.

3. A tax required to be paid by a trustee on the trust's share of an entity's taxable income shall be paid [proportionately]:

(1) From income to the extent that receipts from the entity are allocated to income; and

(2) From principal to the extent that[:

(a)] receipts from the entity are allocated **only** to principal[; and

(b) The trust's share of the entity's taxable income exceeds the total receipts described in subdivision (1) of this subsection and paragraph (a) of this subdivision].

4. [For purposes of this section, receipts allocated to principal or income shall be reduced by the amount distributed to a beneficiary from principal or income for which the trust receives a deduction in calculating the tax] **After applying subsections 1 to 3 of this section, the trustee shall adjust income or principal receipts to the extent that the trust's taxes are reduced because the trust receives a deduction for payment made to a beneficiary.**

**475.060. APPLICATION FOR GUARDIANSHIP — PETITION FOR GUARDIANSHIP REQUIREMENTS — INCAPACITATED PERSONS, PETITION REQUIREMENTS. — 1.** Any person may file a petition for the appointment of himself **or herself** or some other qualified person as guardian of a minor [or guardian of an incapacitated person]. Such petition shall state:

(1) The name, age, domicile, actual place of residence and post office address of the minor [or incapacitated person] if known and if any of these facts is unknown, the efforts made to ascertain that fact;

(2) The estimated value of [his] **the minor's** real and personal property, **and the location and value of any real property owned by the minor outside of this state;**

(3) If the minor [or incapacitated person] has no domicile or place of residence in this state, the county in which the property or major part thereof of the minor [or incapacitated person] is located;

(4) The name and address of the parents of the minor [or incapacitated person] and whether they are living or dead;

(5) The name and address of the spouse, and the names, ages and addresses of all living children of the minor [or incapacitated person];

(6) The name and address of the person having custody of the person of the minor [or incapacitated person];

(7) The name and address of any guardian of the person or conservator of the estate of the minor [or incapacitated person] appointed in this or any other state;

(8) If appointment is sought for a natural person, other than the public administrator, the names and addresses of wards and disabled persons for whom such person is already guardian or conservator;

(9) [In the case of an incapacitated person, the fact that the person for whom guardianship is sought is unable by reason of some specified physical or mental condition to receive and evaluate information or to communicate decisions to such an extent that the person lacks capacity to meet essential requirements for food, clothing, shelter, safety or other care such that serious physical injury, illness or disease is likely to occur] **The name and address of the trustees and the purpose of any trust of which the minor is a qualified beneficiary;**

(10) The reasons why the appointment of a guardian is sought;

(11) A petition for the appointment of a guardian of a minor may be filed for the sole and specific purpose of school registration or medical insurance coverage. Such a petition shall clearly set out this limited request and shall not be combined with a petition for conservatorship.

**2. Any person may file a petition for the appointment of himself or herself or some other qualified person as guardian of an incapacitated person. Such petition shall state:**

(1) **If known, the name, age, domicile, actual place of residence and post office address of the alleged incapacitated person and for the period of three years before the filing of the petition, the most recent addresses, up to three, at which the alleged incapacitated person lived prior to the most recent address, and if any of these facts is unknown, the efforts made to ascertain that fact. In the case of a petition filed by a public official in his or her official capacity, the information required by this subdivision need only be supplied to the extent it is reasonably available to the petitioner;**

(2) **The estimated value of the alleged incapacitated person's real and personal property, and the location and value of any real property owned by the alleged incapacitated person outside of this state;**

(3) **If the alleged incapacitated person has no domicile or place of residence in this state, the county in which the property or major part thereof of the alleged incapacitated person is located;**

(4) **The name and address of the parents of the alleged incapacitated person and whether they are living or dead;**

(5) The name and address of the spouse, the names, ages, and addresses of all living children of the alleged incapacitated person, the names and addresses of the alleged incapacitated person's closest known relatives, and the names and relationship, if known, of any adults living with the alleged incapacitated person; if no spouse, adult child, or parent is listed, the names and addresses of the siblings and children of deceased siblings of the alleged incapacitated person; the name and address of any agent appointed by the alleged incapacitated person in any durable power of attorney, and of the presently acting trustees of any trust of which the alleged incapacitated person is the grantor or is a qualified beneficiary or is or was the trustee or co-trustee and the purpose of the power of attorney or trust;

(6) The name and address of the person having custody of the person of the alleged incapacitated person;

(7) The name and address of any guardian of the person or conservator of the estate of the alleged incapacitated person appointed in this or any other state;

(8) If appointment is sought for a natural person, other than the public administrator, the names and addresses of wards and disabled persons for whom such person is already guardian or conservator;

(9) The fact that the person for whom guardianship is sought is unable by reason of some specified physical or mental condition to receive and evaluate information or to communicate decisions to such an extent that the person lacks capacity to meet essential requirements for food, clothing, shelter, safety, or other care such that serious physical injury, illness, or disease is likely to occur;

(10) The reasons why the appointment of a guardian is sought.

**475.061. APPLICATION FOR CONSERVATORSHIP — MAY COMBINE WITH PETITION FOR GUARDIAN OF PERSON.** — 1. Any person may file a petition in the probate division of the circuit court of the county of proper venue for the appointment of himself or some other qualified person as conservator of the estate of a minor or disabled person. The petition shall contain the same allegations as are set forth in subdivisions (1), (8), and (10) of subsection 2 of section 475.060 with respect to the appointment of a guardian for an incapacitated person and, in addition thereto, an allegation that the respondent is unable by reason of some specific physical or mental condition to receive and evaluate information or to communicate decisions to such an extent that the respondent lacks ability to manage his financial resources or that the respondent is under the age of eighteen years.

2. A petition for appointment of a conservator or limited conservator of the estate may be combined with a petition for appointment of a guardian or limited guardian of the person. In such a combined petition allegations need not be repeated.

**475.115. APPOINTMENT OF SUCCESSOR GUARDIAN OR CONSERVATOR — TRANSFER OF CASE, PROCEDURE.** — 1. When a guardian or conservator dies, is removed by order of the court, or resigns and his or her resignation is accepted by the court, the court shall have the same authority as it has in like cases over personal representatives and their sureties and may appoint another guardian or conservator in the same manner and subject to the same requirements as are herein provided for an original appointment of a guardian or conservator.

2. A public administrator may request transfer of any case to the jurisdiction of another county by filing a petition for transfer. If the receiving county meets the venue requirements of section 475.035 and the public administrator of the receiving county consents to the transfer, the court shall transfer the case. The court with jurisdiction over the receiving county shall, without the necessity of any hearing as required by section 475.075, appoint the public administrator of the receiving county as successor guardian and/or successor conservator and issue letters therein. In the case of a conservatorship, the

final settlement of the public administrator's conservatorship shall be filed within thirty days of the court's transfer of the case, in the court with jurisdiction over the original conservatorship, and forwarded to the receiving county upon audit and approval.

**ARTICLE 1**  
**GENERAL PROVISIONS**

**475.501. SHORT TITLE.** — Sections 475.501 to 475.555 may be cited as the "Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act".

**475.502. DEFINITIONS.** — Notwithstanding the definitions in section 475.010, when used in sections 475.501 to 475.555, the following terms mean:

- (1) "Adult", an individual who has attained eighteen years of age;
- (2) "Conservator", a person appointed by the court to administer the property of an adult, including a person appointed under this chapter;
- (3) "Guardian", a person appointed by the court to make decisions regarding the person of an adult, including a person appointed under this chapter;
- (4) "Guardianship order", an order appointing a guardian;
- (5) "Guardianship proceeding", a proceeding in which an order for the appointment of a guardian is sought or has been issued;
- (6) "Incapacitated person", an adult for whom a guardian has been appointed;
- (7) "Party", the respondent, petitioner, guardian, conservator, or any other person allowed by the court to participate in a guardianship or protective proceeding;
- (8) "Person", except in the term "incapacitated person" or "protected person", an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity;
- (9) "Protected person", an adult for whom a protective order has been issued;
- (10) "Protective order", an order appointing a conservator or other order related to management of an adult's property;
- (11) "Protective proceeding", a judicial proceeding in which a protective order is sought or has been issued;
- (12) "Record", information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;
- (13) "Respondent", an adult for whom a protective order or the appointment of a guardian is sought;
- (14) "State", a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.

**475.503. INTERNATIONAL APPLICATION OF ACT.** — A court of this state may treat a foreign country as if it were a state for the purpose of applying this article and articles 2, 3, and 5.

**475.504. COMMUNICATION BETWEEN COURTS.** — 1. A court of this state may communicate with a court in another state concerning a proceeding arising under sections 475.501 to 475.555. The court may allow the parties to participate in the communication. Except as otherwise provided in subsection 2 of this section, the court shall make a record of the communication. The record may be limited to the fact that the communication occurred.

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2. Courts may communicate concerning schedules, calendars, court records, and other administrative matters without making a record.

**475.505. COOPERATION BETWEEN COURTS. — 1.** In a guardianship or protective proceeding in this state, a court of this state may request the appropriate court of another state to:

- (1) Hold an evidentiary hearing;
- (2) Order a person in that state to produce evidence or give testimony pursuant to procedures of that state;
- (3) Order that an evaluation or assessment be made of the respondent;
- (4) Order any appropriate investigation of a person involved in a proceeding;
- (5) Forward to the court of this state a certified copy of the transcript or other record of a hearing under subdivision (1) of subsection 1 of this section or any other proceeding, any evidence otherwise produced under subdivision (2) of subsection 1 of this section, and any evaluation or assessment prepared in compliance with an order under subdivisions (3) and (4) of subsection 1 of this section;
- (6) Issue any order necessary to assure the appearance in the proceeding of a person whose presence is necessary for the court to make a determination, including the respondent or the incapacitated or protected person;
- (7) Issue an order authorizing the release of medical, financial, criminal, or other relevant information in that state, including protected health information as defined in 45 CFR 160.103, as amended.

2. If a court of another state in which a guardianship or protective proceeding is pending requests assistance of the kind provided in subsection 1 of this section, a court of this state has jurisdiction for the limited purpose of granting the request or making reasonable efforts to comply with the request.

**475.506. TAKING TESTIMONY IN ANOTHER STATE. — 1.** In a guardianship or protective proceeding, in addition to other procedures that may be available, testimony of a witness who is located in another state may be offered by deposition or other means allowable in this state for testimony taken in another state. The court on its own motion may order that the testimony of a witness be taken in another state and may prescribe the manner in which and the terms upon which the testimony is to be taken.

2. In a guardianship or protective proceeding, a court in this state may permit a witness located in another state to be deposed or to testify by telephone or audiovisual or other electronic means. A court of this state shall cooperate with court of the other state in designating an appropriate location for the deposition or testimony.

3. Documentary evidence transmitted from another state to a court of this state by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the best evidence rule.

## ARTICLE 2 JURISDICTION

**475.521. DEFINITIONS — SIGNIFICANT CONNECTION FACTORS. — 1.** In this article, the following terms mean:

- (1) "Emergency", a circumstance that likely will result in substantial harm to a respondent's health, safety, or welfare, and for which the appointment of a guardian is necessary because no other person has authority and is willing to act on the respondent's behalf;

(2) "Home state", the state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months immediately before the filing of a petition for a protective order or the appointment of a guardian; or if none, the state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months ending within the six months prior to the filing of the petition;

(3) "Significant-connection state", a state, other than the home state, with which a respondent has a significant connection other than mere physical presence and in which substantial evidence concerning the respondent is available.

2. In determining under section 475.523 and subsection 5 of section 475.531 whether a respondent has a significant connection with a particular state, the court shall consider:

(1) The location of the respondent's family and other persons required to be notified of the guardianship or protective proceeding;

(2) The length of time the respondent at any time was physically present in the state and the duration of any absence;

(3) The location of the respondent's property; and

(4) The extent to which the respondent has ties to the state such as voting registration, state or local tax return filing, vehicle registration, driver's license, social relationship, and receipt of services.

**475.522. EXCLUSIVE BASIS.** — This article provides the exclusive jurisdictional basis for a court of this state to appoint a guardian or issue a protective order for an adult.

**475.523. JURISDICTION.** — A court of this state has jurisdiction to appoint a guardian or issue a protective order for a respondent if:

(1) This state is the respondent's home state;

(2) On the date a petition is filed, this state is a significant-connection state and:

(a) The respondent does not have a home state or a court of the respondent's home state has declined to exercise jurisdiction because this state is a more appropriate forum; or

(b) The respondent has a home state, a petition for an appointment or order is not pending in a court of that state or another significant-connection state, and, before the court makes the appointment or issues the order:

a. A petition for an appointment or order is not filed in the respondent's home state;

b. An objection to the court's jurisdiction is not filed by a person required to be notified of the proceeding; and

c. The court in this state concludes that it is an appropriate forum under the factors set forth in section 475.526;

(3) This state does not have jurisdiction under either subdivisions (1) or (2) of this section, the respondent's home state and all significant-connection states have declined to exercise jurisdiction because this state is the more appropriate forum, and jurisdiction in this state is consistent with the constitutions of this state and the United States; or

(4) The requirements for special jurisdiction under section 475.524 are met.

**475.524. SPECIAL JURISDICTION.** — 1. A court of this state lacking jurisdiction under section 475.523 has special jurisdiction to do any of the following:

(1) Appoint a guardian in an emergency for a term not exceeding ninety days for a respondent who is physically present in this state;

(2) Issue a protective order with respect to real or tangible personal property located in this state;

(3) Appoint a guardian or conservator for an incapacitated or protected person for whom a provisional order to transfer the proceeding from another state has been issued under procedures similar to section 475.531.

2. If a petition for the appointment of a guardian in an emergency is brought in this state and this state was not the respondent's home state on the date the petition was filed, the court shall dismiss the proceeding at the request of the court of the home state, if any, whether dismissal is requested before or after the emergency appointment.

**475.525. EXCLUSIVE AND CONTINUING JURISDICTION.** — Except as otherwise provided in section 475.524, a court that has appointed a guardian or issued a protective order consistent with sections 475.501 to 475.555 has exclusive and continuing jurisdiction over the proceeding until it is terminated by the court or the appointment or order expires by its own terms.

**475.526. APPROPRIATE FORUM.** — 1. A court of this state having jurisdiction under section 475.523 to appoint a guardian or issue a protective order may decline to exercise its jurisdiction if it determines at any time that a court of another state is a more appropriate forum.

2. If a court of this state declines to exercise its jurisdiction under subsection 1 of this section, it shall either dismiss or stay the proceeding. The court may impose any condition the court considers just and proper, including the condition that a petition for the appointment of a guardian or protective order be promptly filed in another state.

3. In determining whether it is an appropriate forum, the court shall consider all relevant factors, including:

- (1) Any expressed preference of the respondent;
- (2) Whether abuse, neglect, or exploitation of the respondent has occurred or is likely to occur and which state could best protect the respondent from the abuse, neglect, or exploitation;
- (3) The length of time the respondent was physically present in or was a legal resident of this or another state;
- (4) The distance of the respondent from the court in each state;
- (5) The financial circumstances of the respondent's estate;
- (6) The nature and location of the evidence;
- (7) The ability of the court in each state to decide the issue expeditiously and the procedures necessary to present evidence;
- (8) The familiarity of the court of each state with the facts and issues in the proceeding; and
- (9) If an appointment were made, the court's ability to monitor the conduct of the guardian or conservator.

**475.527. JURISDICTION DECLINED BY REASON OF CONDUCT.** — 1. If at any time a court of this state determines that it acquired jurisdiction to appoint a guardian or issue a protective order because of unjustifiable conduct, the court may:

- (1) Decline to exercise jurisdiction;
- (2) Exercise jurisdiction for the limited purpose of fashioning an appropriate remedy to ensure the health, safety, and welfare of the respondent or the protection of the respondent's property or prevent a repetition of the unjustifiable conduct, including staying the proceeding until a petition for the appointment of a guardian or issuance of a protective order is filed in a court of another state having jurisdiction; or
- (3) Continue to exercise jurisdiction after considering:

(a) The extent to which the respondent and all persons required to be notified of the proceedings have acquiesced in the exercise of the court's jurisdiction;

(b) Whether it is a more appropriate forum than the court of any other state under the factors set forth in subsection 3 of section 475.526; and

(c) Whether the court of any other state would have jurisdiction under factual circumstances in substantial conformity with the jurisdictional standards of section 475.523.

2. If a court of this state determines that it acquired jurisdiction to appoint a guardian or issue a protective order because a party seeking to invoke its jurisdiction engaged in unjustifiable conduct, it may assess against that party necessary and reasonable expenses, including attorney's fees, investigative fees, court costs, communication expenses, witness fees and expenses, and travel expenses. The court may not assess fees, costs, or expenses of any kind against this state or a governmental subdivision, agency, or instrumentality of this state unless authorized by law other than sections 475.501 to 475.555.

**475.528. NOTICE OF PROCEEDING.** — If a petition for the appointment of a guardian or issuance of a protective order is brought in this state and this state was not the respondent's home state on the date the petition was filed, in addition to complying with the notice requirements of this state, notice of the petition shall be given to those persons who would be entitled to notice of the petition if a proceeding were brought in the respondent's home state. The notice shall be given in the same manner as notice is required to be given in this state.

**475.529. PROCEEDINGS IN MORE THAN ONE STATE.** — Except for a petition for the appointment of a guardian in an emergency or issuance of a protective order limited to property located in this state as provided in subdivision (1) or (2) of subsection 1 of section 475.524, if a petition for the appointment of a guardian or issuance of a protective order is filed in this and in another state and neither petition has been dismissed or withdrawn, the following rules apply:

(1) If the court in this state has jurisdiction under section 475.523, it may proceed with the case unless a court in another state acquires jurisdiction under provisions similar to section 475.523 before the appointment or issuance of the order.

(2) If the court in this state does not have jurisdiction under section 475.523, whether at the time the petition is filed or at any time before the appointment or issuance of the order, the court shall stay the proceeding and communicate with the court in the other state. If the court in the other state has jurisdiction, the court in this state shall dismiss the petition unless the court in the other state determines that the court in this state is a more appropriate forum.

### **ARTICLE 3**

#### **TRANSFER OF GUARDIANSHIP OR CONSERVATORSHIP**

**475.531. TRANSFER OF GUARDIANSHIP OR CONSERVATORSHIP TO ANOTHER STATE.** —

1. A guardian or conservator appointed in this state may petition the court to transfer the guardianship or conservatorship to another state.

2. Notice of a petition under subsection 1 of this section shall be given to those persons that would be entitled to notice of a petition in this state for the appointment of a guardian or conservator.

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3. On the court's own motion or on request of the guardian or conservator, the incapacitated or protected person, or other person required to be notified of the petition, the court shall hold a hearing on a petition filed pursuant to subsection 1 of this section.

4. The court shall issue an order provisionally granting a petition to transfer a guardianship and shall direct the guardian to petition for guardianship in the other state if the court is satisfied that the guardianship will be accepted by the court in the other state and the court finds that:

(1) The incapacitated person is physically present in or is reasonably expected to move permanently to the other state;

(2) An objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the incapacitated person; and

(3) Plans for care and services for the incapacitated person in the other state are reasonable and sufficient.

5. The court shall issue a provisional order granting a petition to transfer a conservatorship and shall direct the conservator to petition for conservatorship in the other state if the court is satisfied that the conservatorship will be accepted by the court of the other state and the court finds that:

(1) The protected person is physically present in or is reasonably expected to move permanently to the other state, or the protected person has a significant connection to the other state considering the factors set forth in subsection 2 of section 475.521;

(2) An objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the protected person; and

(3) Adequate arrangements will be made for management of the protected person's property.

6. The court shall issue a final order confirming the transfer and terminating the guardianship or conservatorship upon its receipt of:

(1) A provisional order accepting the proceeding from the court to which the proceeding is to be transferred which is issued under provisions similar to section 475.532; and

(2) The documents required to terminate a guardianship or conservatorship in this state.

**475.532. ACCEPTING GUARDIANSHIP OR CONSERVATORSHIP TRANSFERRED FROM ANOTHER STATE. — 1.** To confirm transfer of a guardianship or conservatorship transferred to this state under provisions similar to those in section 475.531, the guardian or conservator shall petition the court in this state to accept the guardianship or conservatorship. The petition shall include a certified copy of the other state's provisional order of transfer.

2. Notice of a petition under subsection 1 of this section shall be given to those persons that would be entitled to notice if the petition were a petition for the appointment of a guardian or issuance of a protective order in both the transferring state and this state. The notice shall be given in the same manner as notice is required to be given in this state.

3. On the court's own motion or on request of the guardian or conservator, the incapacitated or protected person, or other person required to be notified of the proceeding, the court shall hold a hearing on a petition filed pursuant to subsection 1 of this section.

4. The court shall issue an order provisionally granting a petition filed under subsection 1 of this section unless:

(1) An objection is made and the objector establishes that transfer of the proceeding would be contrary to the interests of the incapacitated or protected person; or

(2) The guardian or conservator is ineligible for appointment in this state.

5. The court shall issue a final order accepting the proceeding and appointing the guardian or conservator as guardian or conservator in this state upon its receipt from the court from which the proceeding is being transferred of a final order issued under provisions similar to section 475.531 transferring the proceeding to this state.

6. Not later than ninety days after issuance of a final order accepting transfer of a guardianship or conservatorship, the court shall determine whether the guardianship or conservatorship needs to be modified to conform to the law of this state.

7. In granting a petition under this section, the court shall recognize a guardianship or conservatorship order from the other state, including the determination of the incapacitated or protected person's incapacity and the appointment of the guardian or conservator.

8. The denial by a court of this state of a petition to accept guardianship or conservatorship transferred from another state does not affect the ability of the guardian or conservator to seek appointment as guardian or conservator in this state under this chapter if the court has jurisdiction to make an appointment other than by reason of the provisional order of transfer.

#### ARTICLE 4

#### REGISTRATION AND RECOGNITION OF ORDERS FROM OTHER STATES

**475.541. REGISTRATION OF GUARDIANSHIP ORDERS.** — If a guardian has been appointed in another state and a petition for the appointment of a guardian is not pending in this state, the guardian appointed in the other state, after giving notice to the appointing court of an intent to register, may register the guardianship order in this state by filing as a foreign judgment in a court, in any appropriate county of this state, certified copies of the order and letters of office.

**475.542. REGISTRATION OF PROTECTIVE ORDERS.** — If a conservator has been appointed in another state and a petition for a protective order is not pending in this state, the conservator appointed in the other state, after giving notice to the appointing court of an intent to register, may register the protective order in this state by filing as a foreign judgment in a court of this state, in any county in which property belonging to the protected person is located, certified copies of the order and letters of office and of any bond.

**475.543. EFFECT OF REGISTRATION.** — 1. Upon registration of a guardianship or protective order from another state, the guardian or conservator may exercise in this state all powers authorized in the order of appointment except as prohibited under the laws of this state, including maintaining actions and proceedings in this state and, if the guardian or conservator is not a resident of this state, subject to any conditions imposed upon nonresident parties.

2. A court of this state may grant any relief available under sections 475.501 to 475.555 and other law of this state to enforce a registered order.

**475.544. STATE LAW APPLICABILITY.** — Except where inconsistent with sections 475.541, 475.542, and 475.543, the laws of this state relating to the registration and recognition of the acts of a foreign guardian, curator, or conservator contained in sections 475.335 to 475.340 shall be applicable.

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**ARTICLE 5**  
**MISCELLANEOUS PROVISIONS**

**475.551. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** — In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**475.552. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.** — Sections 475.501 to 475.555 modify, limit, and supersede the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

**475.555. EFFECTIVE DATE.** — 1. Sections 475.501 to 475.555 apply to guardianship and protective proceedings begun on or after August 28, 2011.

2. Articles 1, 3, 4, and sections 475.551 and 475.552 apply to proceedings begun before August 28, 2011, regardless of whether a guardianship or protective order has been issued.

**482.305. JURISDICTION OF SMALL CLAIMS COURT.** — When sitting as a small claims court, the judge shall have original jurisdiction of all civil cases, whether tort or contract, where the amount in controversy does not exceed [three] **five** thousand dollars, exclusive of interest or costs, or as provided in this chapter.

**482.315. PROCEDURE IF AMOUNT OF CLAIM EXCEEDS JURISDICTIONAL AMOUNT — AMENDMENT OF CLAIM IN TRANSFERRED ACTION NOT TO EXCEED JURISDICTIONAL AMOUNT OF COURT TO WHICH TRANSFERRED.** — 1. If the amount in controversy in an action exceeds [three] **five** thousand dollars, a plaintiff may file and prosecute a small claims action for recovery of money, but such plaintiff waives any claim for any sum in excess of [three] **five** thousand dollars in that or in any subsequent proceeding involving the same parties and issues.

2. In an action transferred under section 482.325, the plaintiff or defendant may amend the claim or counterclaim to a dollar amount not to exceed the jurisdictional limit of the division of the circuit court to which the action was transferred.

**SECTION 1. DEFINITION — PROPERTY AND INTERESTS IN PROPERTY, HOW HELD — DEATH OF SETTLOR, EFFECT OF — MARITAL PROPERTY RIGHTS, EFFECT ON.** — 1. As used in this section, "qualified spousal trust" means a trust:

(1) The settlors of which are husband and wife at the time of the creation of the trust; and

(2) The terms of which provide that during the joint lives of the settlors all property or interests in property transferred to, or held by, the trustee are either:

(a) Held and administered in one trust for the benefit of both settlors, revocable by either or both settlors acting together while either or both are alive, and each settlor having the right to receive distributions of income or principal, whether mandatory or within the discretion of the trustee, from the entire trust for the joint lives of the settlors and for the survivor's life; or

(b) Held and administered in two separate shares of one trust for the benefit of each of the settlors, with the trust revocable by each settlor with respect to that settlor's separate share of that trust without the participation or consent of the other settlor, and each settlor

having the right to receive distributions of income or principal, whether mandatory or within the discretion of the trustee, from that settlor's separate share for that settlor's life.

2. A qualified spousal trust may contain any other trust terms that are not inconsistent with the provisions of this section.

3. Property or interests in property held as tenants by the entirety by a husband and wife that is at any time transferred to the trustee of a qualified spousal trust of which the husband and wife are the settlors shall be held and administered as provided by the trust terms in accordance with either paragraph (a) or (b) of subdivision (2) of subsection 1 of this section, and all such property and interests in property, including the proceeds thereof, the income thereon, and any property into which such property, proceeds, or income may be converted, shall thereafter have the same immunity from the claims of the separate creditors of the settlors as would have existed if the settlors had continued to hold that property as husband and wife as tenants by the entirety, so long as:

(1) Both settlors are alive and remain married; and

(2) The property, proceeds, or income continue to be held in trust by the trustee of the qualified spousal trust.

4. Property or interests in property held by a husband and wife or held in the sole name of a husband or wife that is not held as tenants by the entirety and is transferred to a qualified spousal trust shall be held as directed in the qualified spousal trust's governing instrument or in the instrument of transfer and the rights of any claimant to any interest in that property shall not be affected by this section.

5. Upon the death of each settlor, all property and interests in property held by the trustee of the qualified spousal trust shall be distributed as directed by the then current terms of the governing instrument of such trust. Upon the death of the first settlor to die, if immediately prior to death the predeceased settlor's interest in the qualified spousal trust was then held in such settlor's separate share, the property or interests in property in such settlor's separate share may pass into an irrevocable trust for the benefit of the surviving settlor upon such terms as the governing instrument shall direct, including without limitation a spendthrift provision as provided in section 456.5-502.

6. No transfer by a husband and wife as settlors to a qualified spousal trust shall affect or change either settlor's marital property rights to the transferred property or interest therein immediately prior to such transfer in the event of dissolution of marriage of the spouses, unless both spouses otherwise expressly agree in writing.

7. This section shall apply to all trusts which fulfill the criteria set forth in this section for a qualified spousal trust regardless of whether such trust was created before or after August 28, 2011.

Approved July 8, 2011

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SB 62 [HCS SS#2 SCS SB 62]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**Allows providers to include any retrieval fee for outsourced records storage service in the fee for release of medical records.**

AN ACT to repeal sections 190.839, 191.227, 198.439, 208.437, 208.480, 338.550, and 633.401, RSMo, and to enact in lieu thereof nine new sections relating to health care providers.

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## SECTION

- A. Enacting clause.
- 190.839. Expiration date.
- 191.227. Medical records to be released to patient, when, exception — fee permitted, amount — liability of provider limited — annual handling fee adjustment.
- 198.439. Expiration date.
- 208.437. Reimbursement allowance period — notification of balance due, when — delinquent payments, procedure, basis for denial of licensure — expiration date.
- 208.480. Federal reimbursement allowance expiration date.
- 338.550. Expiration date of tax, when.
- 376.1190. Health care mandates — review by oversight division — actuarial analysis.
- 633.401. Definitions — assessment imposed, formula — rates of payment — fund created, use of moneys — record-keeping requirements — report — appeal process — rulemaking authority — expiration date.
  - 1. Nonseverability clause.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 190.839, 191.227, 198.439, 208.437, 208.480, 338.550, and 633.401, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 190.839, 191.227, 198.439, 208.437, 208.480, 338.550, 376.1190, 633.401, and 1, to read as follows:

**190.839. EXPIRATION DATE.** — Sections 190.800 to 190.839 shall expire on September 30, [2011] **2015**.

**191.227. MEDICAL RECORDS TO BE RELEASED TO PATIENT, WHEN, EXCEPTION — FEE PERMITTED, AMOUNT — LIABILITY OF PROVIDER LIMITED — ANNUAL HANDLING FEE ADJUSTMENT.** — 1. All physicians, chiropractors, hospitals, dentists, and other duly licensed practitioners in this state, herein called "providers", shall, upon written request of a patient, or guardian or legally authorized representative of a patient, furnish a copy of his or her record of that patient's health history and treatment rendered to the person submitting a written request, except that such right shall be limited to access consistent with the patient's condition and sound therapeutic treatment as determined by the provider. Beginning August 28, 1994, such record shall be furnished within a reasonable time of the receipt of the request therefor and upon payment of a fee as provided in this section.

2. Health care providers may condition the furnishing of the patient's health care records to the patient, the patient's authorized representative or any other person or entity authorized by law to obtain or reproduce such records upon payment of a fee for:

(1) (a) Copying, in an amount not more than [seventeen] **twenty-one** dollars and [five] **thirty-six** cents plus [forty] **fifty** cents per page for the cost of supplies and labor **plus, if the health care provider has contracted for off-site records storage and management, any additional labor costs of outside storage retrieval, not to exceed twenty dollars, as adjusted annually pursuant to subsection 5 of this section; or**

(b) **If the health care provider stores records in an electronic or digital format, and provides the requested records and affidavit, if requested, in an electronic or digital format, not more than five dollars plus fifty cents per page or twenty-five dollars total, whichever is less;**

(2) Postage, to include packaging and delivery cost; and

(3) Notary fee, not to exceed two dollars, if requested.

3. Notwithstanding provisions of this section to the contrary, providers may charge for the reasonable cost of all duplications of health care record material or information which cannot routinely be copied or duplicated on a standard commercial photocopy machine.

4. The transfer of the patient's record done in good faith shall not render the provider liable to the patient or any other person for any consequences which resulted or may result from disclosure of the patient's record as required by this section.

5. Effective February first of each year, the fees listed in subsection 2 of this section shall be increased or decreased annually based on the annual percentage change in the unadjusted, U.S. city average, annual average inflation rate of the medical care component of the Consumer Price Index for All Urban Consumers (CPI-U). The current reference base of the index, as published by the Bureau of Labor Statistics of the United States Department of Labor, shall be used as the reference base. For purposes of this subsection, the annual average inflation rate shall be based on a twelve-month calendar year beginning in January and ending in December of each preceding calendar year. The department of health and senior services shall report the annual adjustment and the adjusted fees authorized in this section on the department's Internet website by February first of each year.

**198.439. EXPIRATION DATE.** — Sections 198.401 to 198.436 shall expire on September 30, [2011] **2015**.

**208.437. REIMBURSEMENT ALLOWANCE PERIOD — NOTIFICATION OF BALANCE DUE, WHEN — DELINQUENT PAYMENTS, PROCEDURE, BASIS FOR DENIAL OF LICENSURE — EXPIRATION DATE.** — 1. A Medicaid managed care organization reimbursement allowance period as provided in sections 208.431 to 208.437 shall be from the first day of July to the thirtieth day of June. The department shall notify each Medicaid managed care organization with a balance due on the thirtieth day of June of each year the amount of such balance due. If any managed care organization fails to pay its managed care organization reimbursement allowance within thirty days of such notice, the reimbursement allowance shall be delinquent. The reimbursement allowance may remain unpaid during an appeal.

2. Except as otherwise provided in this section, if any reimbursement allowance imposed under the provisions of sections 208.431 to 208.437 is unpaid and delinquent, the department of social services may compel the payment of such reimbursement allowance in the circuit court having jurisdiction in the county where the main offices of the Medicaid managed care organization are located. In addition, the director of the department of social services or the director's designee may cancel or refuse to issue, extend or reinstate a Medicaid contract agreement to any Medicaid managed care organization which fails to pay such delinquent reimbursement allowance required by sections 208.431 to 208.437 unless under appeal.

3. Except as otherwise provided in this section, failure to pay a delinquent reimbursement allowance imposed under sections 208.431 to 208.437 shall be grounds for denial, suspension or revocation of a license granted by the department of insurance, financial institutions and professional registration. The director of the department of insurance, financial institutions and professional registration may deny, suspend or revoke the license of a Medicaid managed care organization with a contract under 42 U.S.C. Section 1396b(m) which fails to pay a managed care organization's delinquent reimbursement allowance unless under appeal.

4. Nothing in sections 208.431 to 208.437 shall be deemed to effect or in any way limit the tax-exempt or nonprofit status of any Medicaid managed care organization with a contract under 42 U.S.C. Section 1396b(m) granted by state law.

5. Sections 208.431 to 208.437 shall expire on September 30, [2011] **2015**.

**208.480. FEDERAL REIMBURSEMENT ALLOWANCE EXPIRATION DATE.** — Notwithstanding the provisions of section 208.471 to the contrary, sections 208.453 to 208.480 shall expire on September 30, [2011] **2015**.

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**338.550. EXPIRATION DATE OF TAX, WHEN.** — 1. The pharmacy tax required by sections 338.500 to 338.550 shall expire ninety days after any one or more of the following conditions are met:

(1) The aggregate dispensing fee as appropriated by the general assembly paid to pharmacists per prescription is less than the fiscal year 2003 dispensing fees reimbursement amount; or

(2) The formula used to calculate the reimbursement as appropriated by the general assembly for products dispensed by pharmacies is changed resulting in lower reimbursement to the pharmacist in the aggregate than provided in fiscal year 2003; or

(3) September 30, [2011] **2015**.

The director of the department of social services shall notify the revisor of statutes of the expiration date as provided in this subsection. The provisions of sections 338.500 to 338.550 shall not apply to pharmacies domiciled or headquartered outside this state which are engaged in prescription drug sales that are delivered directly to patients within this state via common carrier, mail or a carrier service.

2. Sections 338.500 to 338.550 shall expire on September 30, [2011] **2015**.

**376.1190. HEALTH CARE MANDATES — REVIEW BY OVERSIGHT DIVISION — ACTUARIAL ANALYSIS.** — 1. Health carriers shall permit individuals to learn the amount of cost-sharing, including deductibles, copayments, and coinsurance, under the individual's health benefit plan or coverage that the individual would be responsible for paying with respect to the furnishing of a specific item or service by a participating provider in a timely manner upon the request of the individual. At a minimum, such information shall be made available to such individual through an internet website and such other means for individuals without access to the internet. As used in this section, the terms "health carrier" and "health benefit plans" shall have the same meanings assigned to them in section 376.1350.

2. This section shall not apply to a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, hospitalization-surgical care policy, short-term major medical policy of six months or less duration, or any other supplemental policy.

3. Any health care benefit mandate proposed after August 28, 2011, shall be subject to review by the oversight division of the joint committee on legislative research. The oversight division shall perform an actuarial analysis of the cost impact to private and public payers of any new or revised mandated health care benefit proposed by the General Assembly after August 28, 2011 and a recommendation shall be delivered to the Speaker and the President Pro Tem prior to mandate being enacted.

4. The provisions of subsections 1 and 2 shall become effective on January 1, 2014.

**633.401. DEFINITIONS — ASSESSMENT IMPOSED, FORMULA — RATES OF PAYMENT — FUND CREATED, USE OF MONEYS — RECORD-KEEPING REQUIREMENTS — REPORT — APPEAL PROCESS — RULEMAKING AUTHORITY — EXPIRATION DATE.** — 1. For purposes of this section, the following terms mean:

(1) "Engaging in the business of providing health benefit services", accepting payment for health benefit services;

(2) "Intermediate care facility for the mentally retarded", a private or department of mental health facility which admits persons who are mentally retarded or developmentally disabled for residential habilitation and other services pursuant to chapter 630. Such term shall include

habilitation centers and private or public intermediate care facilities for the mentally retarded that have been certified to meet the conditions of participation under 42 CFR, Section 483, Subpart 1;

(3) "Net operating revenues from providing services of intermediate care facilities for the mentally retarded" shall include, without limitation, all moneys received on account of such services pursuant to rates of reimbursement established and paid by the department of social services, but shall not include charitable contributions, grants, donations, bequests and income from nonservice related fund-raising activities and government deficit financing, contractual allowance, discounts or bad debt;

(4) "Services of intermediate care facilities for the mentally retarded" has the same meaning as the term used in Title 42 United States Code, Section 1396b(w)(7)(A)(iv), as amended, and as such qualifies as a class of health care services recognized in federal Public Law 102-234, the Medicaid Voluntary Contribution and Provider Specific Tax Amendment of 1991.

2. Beginning July 1, 2008, each provider of services of intermediate care facilities for the mentally retarded shall, in addition to all other fees and taxes now required or paid, pay assessments on their net operating revenues for the privilege of engaging in the business of providing services of the intermediate care facilities for the mentally retarded or developmentally disabled in this state.

3. Each facility's assessment shall be based on a formula set forth in rules and regulations promulgated by the department of mental health.

4. For purposes of determining rates of payment under the medical assistance program for providers of services of intermediate care facilities for the mentally retarded, the assessment imposed pursuant to this section on net operating revenues shall be a reimbursable cost to be reflected as timely as practicable in rates of payment applicable within the assessment period, contingent, for payments by governmental agencies, on all federal approvals necessary by federal law and regulation for federal financial participation in payments made for beneficiaries eligible for medical assistance under Title XIX of the federal Social Security Act.

5. Assessments shall be submitted by or on behalf of each provider of services of intermediate care facilities for the mentally retarded on a monthly basis to the director of the department of mental health or his or her designee and shall be made payable to the director of the department of revenue.

6. In the alternative, a provider may direct that the director of the department of social services offset, from the amount of any payment to be made by the state to the provider, the amount of the assessment payment owed for any month.

7. Assessment payments shall be deposited in the state treasury to the credit of the "Intermediate Care Facility Mentally Retarded Reimbursement Allowance Fund", which is hereby created in the state treasury. All investment earnings of this fund shall be credited to the fund. Notwithstanding the provisions of section 33.080 to the contrary, any unexpended balance in the intermediate care facility mentally retarded reimbursement allowance fund at the end of the biennium shall not revert to the general revenue fund but shall accumulate from year to year. The state treasurer shall maintain records that show the amount of money in the fund at any time and the amount of any investment earnings on that amount.

8. Each provider of services of intermediate care facilities for the mentally retarded shall keep such records as may be necessary to determine the amount of the assessment for which it is liable under this section. On or before the forty-fifth day after the end of each month commencing July 1, 2008, each provider of services of intermediate care facilities for the mentally retarded shall submit to the department of social services a report on a cash basis that reflects such information as is necessary to determine the amount of the assessment payable for that month.

9. Every provider of services of intermediate care facilities for the mentally retarded shall submit a certified annual report of net operating revenues from the furnishing of services of intermediate care facilities for the mentally retarded. The reports shall be in such form as may be prescribed by rule by the director of the department of mental health. Final payments of the

assessment for each year shall be due for all providers of services of intermediate care facilities for the mentally retarded upon the due date for submission of the certified annual report.

10. The director of the department of mental health shall prescribe by rule the form and content of any document required to be filed pursuant to the provisions of this section.

11. Upon receipt of notification from the director of the department of mental health of a provider's delinquency in paying assessments required under this section, the director of the department of social services shall withhold, and shall remit to the director of the department of revenue, an assessment amount estimated by the director of the department of mental health from any payment to be made by the state to the provider.

12. In the event a provider objects to the estimate described in subsection 11 of this section, or any other decision of the department of mental health related to this section, the provider of services may request a hearing. If a hearing is requested, the director of the department of mental health shall provide the provider of services an opportunity to be heard and to present evidence bearing on the amount due for an assessment or other issue related to this section within thirty days after collection of an amount due or receipt of a request for a hearing, whichever is later. The director shall issue a final decision within forty-five days of the completion of the hearing. After reconsideration of the assessment determination and a final decision by the director of the department of mental health, an intermediate care facility for the mentally retarded provider's appeal of the director's final decision shall be to the administrative hearing commission in accordance with sections 208.156 and 621.055.

13. Notwithstanding any other provision of law to the contrary, appeals regarding this assessment shall be to the circuit court of Cole County or the circuit court in the county in which the facility is located. The circuit court shall hear the matter as the court of original jurisdiction.

14. Nothing in this section shall be deemed to affect or in any way limit the tax-exempt or nonprofit status of any intermediate care facility for the mentally retarded granted by state law.

15. The director of the department of mental health shall promulgate rules and regulations to implement this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

16. The provisions of this section shall expire on September 30, [2011] **2015**.

**SECTION 1. NONSEVERABILITY CLAUSE. — Notwithstanding the provisions of section 1.140 to the contrary, the provisions of this act shall be nonseverable, and if any provision is for any reason held to be invalid, such decision shall invalidate all of the remaining provisions of this act.**

Approved June 10, 2011

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SB 65 [SS SCS SB 65]

**EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

**Modifies provisions relating to abortion with respect to viability.**

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AN ACT to repeal sections 188.015, 188.029, and 188.030, RSMo, and to enact in lieu thereof two new sections relating to abortion, with penalty provisions.

SECTION

A. Enacting clause.

188.015. Definitions.

188.030. Abortion of viable unborn child prohibited, exceptions — physician duties — violations, penalty — severability — right of intervention, when.

188.029. Physician, determination of viability, duties.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 188.015, 188.029, and 188.030, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 188.015 and 188.030, to read as follows:

**188.015. DEFINITIONS.** — As used in this chapter, the following terms mean:

(1) "Abortion"[, the intentional destruction of the life of an embryo or fetus in his or her mother's womb or the intentional termination of the pregnancy of a mother with an intention other than to increase the probability of a live birth or to remove a dead or dying unborn child];

(a) **The act of using or prescribing any instrument, device, medicine, drug, or any other means or substance with the intent to destroy the life of an embryo or fetus in his or her mother's womb; or**

(b) **The intentional termination of the pregnancy of a mother by using or prescribing any instrument, device, medicine, drug, or other means or substance with an intention other than to increase the probability of a live birth or to remove a dead or dying unborn child;**

(2) "Abortion facility", a clinic, physician's office, or any other place or facility in which abortions are performed or induced other than a hospital;

(3) "Conception", the fertilization of the ovum of a female by a sperm of a male;

(4) "Department", the department of health and senior services;

(5) "Gestational age", length of pregnancy as measured from the first day of the woman's last menstrual period;

(6) "Medical emergency", a condition which, [on the basis of a physician's good faith clinical] **based on reasonable medical** judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert the death of the pregnant woman or for which a delay will create a serious risk of substantial and irreversible **physical** impairment of a major bodily function of the pregnant woman;

(7) "Physician", any person licensed to practice medicine in this state by the state board of registration for the healing arts;

(8) **"Reasonable medical judgment", a medical judgment that would be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved;**

(9) "Unborn child", the offspring of human beings from the moment of conception until birth and at every stage of its biological development, including the human conceptus, zygote, morula, blastocyst, embryo, and fetus;

[(9)] (10) "Viability" or **"viable"**, that stage of fetal development when the life of the unborn child may be continued indefinitely outside the womb by natural or artificial life-supportive systems.

**188.030. ABORTION OF VIALBUNBORN CHILD PROHIBITED, EXCEPTIONS — PHYSICIAN DUTIES — VIOLATIONS, PENALTY — SEVERABILITY — RIGHT OF INTERVENTION, WHEN. —**

1. **Except in the case of a medical emergency**, no abortion of a viable unborn child shall be performed **or induced** unless [necessary to preserve the life or health of the woman. Before a physician may perform an abortion upon a pregnant woman after such time as her unborn child has become viable, such physician shall first certify in writing that the abortion is necessary to preserve the life or health of the woman and shall further certify in writing the medical indications for such abortion and the probable health consequences.

2. Any physician who performs an abortion upon a woman carrying a viable unborn child shall utilize the available method or technique of abortion most likely to preserve the life and health of the unborn child. In cases where the method or technique of abortion which would most likely preserve the life and health of the unborn child would present a greater risk to the life and health of the woman than another available method or technique, the physician may utilize such other method or technique. In all cases where the physician performs an abortion upon a viable unborn child, the physician shall certify in writing the available method or techniques considered and the reasons for choosing the method or technique employed.

3. An abortion of a viable unborn child shall be performed or induced only when there is in attendance a physician other than the physician performing or inducing the abortion who shall take control of and provide immediate medical care for a child born as a result of the abortion. During the performance of the abortion, the physician performing it, and subsequent to the abortion, the physician required by this section to be in attendance, shall take all reasonable steps in keeping with good medical practice, consistent with the procedure used, to preserve the life and health of the viable unborn child; provided that it does not pose an increased risk to the life or health of the woman.] **the abortion is necessary to preserve the life of the pregnant woman whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself, or when continuation of the pregnancy will create a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman. For purposes of this section, "major bodily function" includes, but is not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.**

2. **Except in the case of a medical emergency:**

(1) Prior to performing or inducing an abortion upon a woman, the physician shall determine the gestational age of the unborn child in a manner consistent with accepted obstetrical and neonatal practices and standards. In making such determination, the physician shall make such inquiries of the pregnant woman and perform or cause to be performed such medical examinations, imaging studies, and tests as a reasonably prudent physician, knowledgeable about the medical facts and conditions of both the woman and the unborn child involved, would consider necessary to perform and consider in making an accurate diagnosis with respect to gestational age.

(2) If the physician determines that the gestational age of the unborn child is twenty weeks or more, prior to performing or inducing an abortion upon the woman, the physician shall determine if the unborn child is viable by using and exercising that degree of care, skill, and proficiency commonly exercised by a skillful, careful, and prudent physician. In making this determination of viability, the physician shall perform or cause to be performed such medical examinations and tests as are necessary to make a finding of the gestational age, weight, and lung maturity of the unborn child and shall enter such findings and determination of viability in the medical record of the woman.

(3) If the physician determines that the gestational age of the unborn child is twenty weeks or more, and further determines that the unborn child is not viable and performs or induces an abortion upon the woman, the physician shall report such findings and determinations and the reasons for such determinations to the health care facility in which the abortion is performed and to the state board of registration for the healing arts, and

shall enter such findings and determinations in the medical records of the woman and in the individual abortion report submitted to the department under section 188.052.

(4) (a) If the physician determines that the unborn child is viable, the physician shall not perform or induce an abortion upon the woman unless the abortion is necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy will create a serious risk of substantial and irreversible physical impairment of a major bodily function of the woman.

(b) Before a physician may proceed with performing or inducing an abortion upon a woman when it has been determined that the unborn child is viable, the physician shall first certify in writing the medical threat posed to the life of the pregnant woman, or the medical reasons that continuation of the pregnancy would cause a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman. Upon completion of the abortion, the physician shall report the reasons and determinations for the abortion of a viable unborn child to the health care facility in which the abortion is performed and to the state board of registration for the healing arts, and shall enter such findings and determinations in the medical record of the woman and in the individual abortion report submitted to the department under section 188.052.

(c) Before a physician may proceed with performing or inducing an abortion upon a woman when it has been determined that the unborn child is viable, the physician who is to perform the abortion shall obtain the agreement of a second physician with knowledge of accepted obstetrical and neonatal practices and standards who shall concur that the abortion is necessary to preserve the life of the pregnant woman, or that continuation of the pregnancy would cause a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman. This second physician shall also report such reasons and determinations to the health care facility in which the abortion is to be performed and to the state board of registration for the healing arts, and shall enter such findings and determinations in the medical record of the woman and the individual abortion report submitted to the department under section 188.052. The second physician shall not have any legal or financial affiliation or relationship with the physician performing or inducing the abortion, except that such prohibition shall not apply to physicians whose legal or financial affiliation or relationship is a result of being employed by or having staff privileges at the same hospital as the term "hospital" is defined in section 197.020.

(d) Any physician who performs or induces an abortion upon a woman when it has been determined that the unborn child is viable shall utilize the available method or technique of abortion most likely to preserve the life or health of the unborn child. In cases where the method or technique of abortion most likely to preserve the life or health of the unborn child would present a greater risk to the life or health of the woman than another legally permitted and available method or technique, the physician may utilize such other method or technique. In all cases where the physician performs an abortion upon a viable unborn child, the physician shall certify in writing the available method or techniques considered and the reasons for choosing the method or technique employed.

(e) No physician shall perform or induce an abortion upon a woman when it has been determined that the unborn child is viable unless there is in attendance a physician other than the physician performing or inducing the abortion who shall take control of and provide immediate medical care for a child born as a result of the abortion. During the performance of the abortion, the physician performing it, and subsequent to the abortion, the physician required to be in attendance, shall take all reasonable steps in keeping with good medical practice, consistent with the procedure used, to preserve the life or health of the viable unborn child; provided that it does not pose an increased risk to the life of the woman or does not pose an increased risk of substantial and irreversible physical impairment of a major bodily function of the woman.

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3. Any person who knowingly performs or induces an abortion of an unborn child in violation of the provisions of this section is guilty of a class C felony, and upon a finding of guilt or plea of guilty, shall be imprisoned for a term of not less than one year, and, notwithstanding the provisions of section 560.011, shall be fined not less than ten thousand nor more than fifty thousand dollars.

4. Any physician who pleads guilty to or is found guilty of performing or inducing an abortion of an unborn child in violation of this section shall be subject to suspension or revocation of his or her license to practice medicine in the state of Missouri by the state board of registration for the healing arts under the provisions of sections 334.100 and 334.103.

5. Any hospital licensed in the state of Missouri that knowingly allows an abortion of an unborn child to be performed or induced in violation of this section may be subject to suspension or revocation of its license under the provisions of section 197.070.

6. Any ambulatory surgical center licensed in the state of Missouri that knowingly allows an abortion of an unborn child to be performed or induced in violation of this section may be subject to suspension or revocation of its license under the provisions of section 197.220.

7. A woman upon whom an abortion is performed or induced in violation of this section shall not be prosecuted for a conspiracy to violate the provisions of this section.

8. Nothing in this section shall be construed as creating or recognizing a right to abortion, nor is it the intention of this section to make lawful any abortion that is currently unlawful.

9. It is the intent of the legislature that this section be severable as noted in section 1.140. In the event that any section, subsection, subdivision, paragraph, sentence, or clause of this section be declared invalid under the Constitution of the United States or the Constitution of the State of Missouri, it is the intent of the legislature that the remaining provisions of this section remain in force and effect as far as capable of being carried into execution as intended by the legislature.

10. The general assembly may, by concurrent resolution, appoint one or more of its members who sponsored or co-sponsored this act in his or her official capacity, to intervene as a matter of right in any case in which the constitutionality of this law is challenged.

**[188.029. PHYSICIAN, DETERMINATION OF VIABILITY, DUTIES.** — Before a physician performs an abortion on a woman he has reason to believe is carrying an unborn child of twenty or more weeks gestational age, the physician shall first determine if the unborn child is viable by using and exercising that degree of care, skill, and proficiency commonly exercised by the ordinarily skillful, careful, and prudent physician engaged in similar practice under the same or similar conditions. In making this determination of viability, the physician shall perform or cause to be performed such medical examinations and tests as are necessary to make a finding of the gestational age, weight, and lung maturity of the unborn child and shall enter such findings and determination of viability in the medical record of the mother.]

No action taken by Governor, bill becomes law pursuant to Article III, Section 31, of the Missouri Constitution.

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**Authorizes the issuance of subpoenas for the production of records by the General Assembly.**

AN ACT to repeal section 21.400, RSMo, and to enact in lieu thereof one new section relating to subpoenas issued by the general assembly.

SECTION

- A. Enacting clause.  
21.400. Subpoenas shall be issued — attested, how.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Section 21.400, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 21.400, to read as follows:

**21.400. SUBPOENAS SHALL BE ISSUED — ATTESTED, HOW.** — Subpoenas for witnesses **and the production of records** shall be issued at the request of any member of [either house] **the senate or the house of representatives**, or the party accused, or any member of any committee; and all process awarded by the senate or house of representatives, and subpoenas and other process for witnesses whose attendance is required by either the senate or the house, or before any committee, shall be under the hand of the president **pro tem**, or the speaker and attested by the secretary or chief clerk, as the case may be, and shall be executed by the sergeant at arms of such house, or by a special messenger appointed for that purpose.

Approved June 17, 2011

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**SB 70 [CCS SS SCS SB 70]**

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**Modifies provisions relating to the Missouri Family Trust.**

AN ACT to repeal sections 402.199, 402.200, 402.205, 402.210, 402.215, 402.217, 402.220, 473.657, and 475.093, RSMo, and section 402.210 as truly agreed to and finally passed by senate substitute no. 2 for house bill no. 648, ninety-sixth general assembly, first regular session, and to enact in lieu thereof twelve new sections relating to the Missouri family trust.

SECTION

- A. Enacting clause.  
402.199. Declaration of policy — contributions to Missouri family trust not to adversely impact other benefits of beneficiaries.  
402.200. Definitions.  
402.201. Board of trustees created, members, expenses — accounting of funds required — assets not state moneys — immunity from liability, when.  
402.202. Trust accounts, restricted trust accounts, charitable trust — administered as Missouri family trust — pooling permitted — additional board powers.  
402.203. Contribution of assets, by whom — trust account to be created — cotrustees and successors — breach of fiduciary duty, effect of — death of beneficiary, procedure — remainder distribution.  
402.204. Settlor may contribute assets — trust account created — cotrustees and successors — breach of fiduciary duty, effect of — death of beneficiary, procedure — remainder distribution.
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- 402.205. Withdrawal from trust account, when — revocation or termination of trust, when, distribution — trust principal and income held for benefit of beneficiary.
- 402.206. First and third party trusts, account held and administered, how.
- 402.207. Charitable trust established, when.
- 402.208. Fees authorized — periodic reports — no property interest in trust account, when.
- 473.657. Distribution.
- 475.093. Court may authorize participation in family trust.
- 402.210. Board of trustees — members, appointment, term, qualifications, expenses — annual accounting — rules and regulations.
- 402.210. Board of trustees — members, appointment, term, qualifications, expenses — annual accounting — rules and regulations.
- 402.215. Board of trustees, duties — provisions for trust documents.
- 402.217. Restrictions — income not subject to seizure — certain interests in income not alienable.
- 402.220. Liability of trustees, limitations on.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 402.199, 402.200, 402.205, 402.210, 402.215, 402.217, 402.220, 473.657, and 475.093, RSMo, and section 402.210 as truly agreed to and finally passed by senate substitute no. 2 for house bill no. 648, ninety-sixth general assembly, first regular session, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 402.199, 402.200, 402.201, 402.202, 402.203, 402.204, 402.205, 402.206, 402.207, 402.208, 473.657, and 475.093, to read as follows:

**402.199. DECLARATION OF POLICY — CONTRIBUTIONS TO MISSOURI FAMILY TRUST NOT TO ADVERSELY IMPACT OTHER BENEFITS OF BENEFICIARIES.** — 1. The general assembly hereby finds and declares the following:

(1) It is an essential function of state government to provide basic support **and services** for **certain** persons with [a mental or physical impairment that substantially limits one or more major life activities, whether the impairment is congenital or acquired by accident, injury or disease] **disabilities;**

(2) [The cost of providing basic support for persons with a mental or physical impairment is difficult for many to afford and they are forced to] **Many persons with disabilities lack financial resources and must** rely upon the government to provide [such] **services and** support; **and**

(3) [Families and friends of persons with a mental or physical impairment desire to supplement, but not replace, the basic support provided by state government and other governmental programs;

(4) The cost of medical, social or other supplemental services is often provided by families and friends of persons with mental or physical impairments, for the lifetime of such persons;

(5) It is in the best interest of the [people of this] state **and is necessary and desirable for the public health, safety, and welfare** to encourage, enhance and foster the ability of [families and friends of Missouri residents and residents of adjacent states with mental or physical impairments to supplement, but not to replace, the basic support provided by state government and other governmental programs and to provide for medical, social or other supplemental services for such persons;

(6) Permitting and assisting families and friends of Missouri residents and residents of adjacent states with mental or physical impairments to supplement, but not to replace, the basic support provided by state government and other governmental programs and to provide medical, social or other supplemental services for such persons as necessary and desirable for the public health, safety and welfare of this state] **individuals with disabilities who reside in Missouri or who reside in one of the eight states adjacent to Missouri, and in the best interests of their families and friends to supplement, but not replace, the services and support provided by state government and other governmental programs.**

2. In light of the findings and declarations described in subsection 1 of this section, the general assembly **hereby** declares [the purpose of the Missouri family trust to be the encouragement, enhancement and fostering of the provision of medical, social or other supplemental services for persons with a mental or physical impairment by family and friends of such persons] **that contributions to a trust account administered as part of the Missouri family trust by the Missouri family trust board of trustees as authorized in sections 402.199 to 402.208, shall in no way reduce, impair, or diminish the benefits to which the beneficiary of the trust account is otherwise entitled by law, nor shall the administration of the Missouri family trust or any trust account therein be taken into consideration in determining appropriations for programs or services for persons with disabilities, and unless otherwise prohibited by federal statutes or regulations, all state agencies shall disregard the trust account as a resource when determining the eligibility of a resident for assistance under chapter 208.**

**402.200. DEFINITIONS.** — As used in sections 402.199 to [402.220] **402.208**, the following terms mean:

- (1) **"Beneficiary", also referred to as "life beneficiary", a person who:**
  - (a) **Has been determined to have a disability or to be a disabled person;**
  - (b) **Is a resident of Missouri or one of the eight states adjacent to Missouri; and**
  - (c) **Is the person designated as the sole, primary beneficiary of a trust account administrated as part of the Missouri family trust by the board of trustees;**
- (2) **"Board of trustees", [the] "board", or "Missouri family trust board of trustees", the body corporate and instrumentality of the state, established as the Missouri family trust board of trustees pursuant to section 402.201;**
- [(2)] (3) **"Charitable trust", [the trust to provide benefits for] an account established and administered as part of the Missouri family trust for the benefit of disabled individuals, as [set forth] provided in section [402.215] 402.207;**
- (4) **"Co-trustee", that person designated by the settlor to act together with the trustee as co-trustee of a trust account;**
- [(3)] (5) **"Department", the department of mental health;**
- [(4)] (6) **"Disability"[:]**
  - (a) **A mental or physical impairment that substantially limits one or more major life activities, whether the impairment is congenital or acquired by accident, injury or disease, and where the impairment is verified by medical findings; or**
  - (b) **As is defined in section 1614(a)(3) of the Social Security Act, 42 U.S.C. 1382c(a)(3);**
- [(5)] **"Life beneficiary" or "beneficiary", a designated beneficiary of the Missouri family trust;**
- (6) [(7)] **"Missouri family trust" or "trust", the trust established pursuant to section 402.202 and administered by the board of trustees, as trustee, pursuant to sections 402.199 to 402.208;**
- (8) **"Net income", the earnings received on investments less administrative expenses and fees;**
- [(7)] (9) **"Principal balance", the fair market value of all contributions made to a particular account, less distributions, determined as of the end of the calendar month immediately preceding the occurrence giving rise to any determination of principal balance;**
- [(8)] **"Requesting party", the party desiring arbitration;**
- (9) **"Responding party", the other party in arbitration of a dispute regarding benefits to be provided by the trust;]**
- (10) **"Remainder beneficiaries", the person or persons designated to receive the applicable portion of the principal balance of a trust account remaining after the death of the beneficiary;**

(11) "Restricted account", an account established and administered as part of the trust for the benefit of persons with disabilities as provided in section 402.206;

(12) "[Successor] Standby trust", the trust established upon distribution of a trust account by the board of trustees pursuant to notice of withdrawal or termination and administered as set forth in subsection 3 of section [402.215] 402.205;

[(11)] (13) "Trust account", an account established and administered as part of the Missouri family trust [established pursuant to] for the benefit of a beneficiary as provided in sections [402.200 to 402.220] 402.203 and 402.204;

[(12)] (14) "Trustee", [a member of the Missouri family trust] the board of trustees acting in its capacity as trustee of a trust account, the charitable trust, or a restricted account as used in section 402.201.

**402.201. BOARD OF TRUSTEES CREATED, MEMBERS, EXPENSES — ACCOUNTING OF FUNDS REQUIRED — ASSETS NOT STATE MONEYS — IMMUNITY FROM LIABILITY, WHEN. —**

1. There is hereby created the "Missouri Family Trust Board of Trustees", which shall be a body corporate and an instrumentality of the state, and which shall be incorporated as a Missouri general not-for-profit corporation. The board of trustees is authorized to apply for and qualify for recognition as an exempt organization pursuant to section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended.

2. The board of trustees shall consist of nine members who are natural persons appointed by the governor with the advice and consent of the senate. The members' terms of office shall be three years and until their successors are appointed and qualified. The members shall be persons who are not prohibited from serving by sections 105.450 to 105.482. The board shall be composed of the following:

(1) Three members of the immediate family of persons who have a disability of mental illness. The department's state advisory council for comprehensive psychiatric services, created pursuant to section 632.020, shall submit a panel of nine proposed members of the board to the governor, from which the governor shall appoint three. One shall be appointed for a term of one year, one for two years, and one for three years. Thereafter, as the term of a member of the board appointed under this subdivision expires each year, the state advisory council for comprehensive psychiatric services shall submit to the governor a panel of not less than three nor more than five proposed members of the board of trustees, and the governor shall appoint one member from such panel for a term of three years;

(2) Three members of the immediate family of persons who have a developmental disability. The department's Missouri planning council for developmental disabilities, created pursuant to section 633.020, shall submit a panel of nine proposed members of the board to the governor, from which the governor shall appoint three. One shall be appointed for a term of one year, one for two years, and one for three years. Thereafter, as the term of a member of the board appointed under this subdivision expires each year, the Missouri planning council for developmental disabilities shall submit to the governor a panel of not less than three nor more than five proposed members of the board of trustees, and the governor shall appoint one member from such panel for a term of three years; and

(3) Three persons recognized for their expertise in general business matters and procedures. Of the three business persons to be appointed by the governor, one shall be appointed for one year, one for two years, and one for three years. Thereafter, as the term of a member of the board of trustees appointed under this subdivision expires each year, the governor shall appoint one business person as member for a term of three years.

3. As used in subdivisions (1) and (2) of subsection 2 of this section, "immediate family" includes spouse, parents, parents of spouse, children, spouses of children, and siblings.

4. No member of the board of trustees shall receive compensation for services as a member of the board. The board shall reimburse the members of the board for necessary expenses actually incurred in the performance of their duties.

5. The board of trustees shall be subject to the provisions of sections 610.010 to 610.029 and is considered a public governmental body under section 610.010.

6. The board of trustees shall annually prepare or cause to be prepared an accounting of funds administered by the board and shall transmit a copy of the accounting to the governor, the president pro tempore of the senate and the speaker of the house of representatives.

7. The board of trustees shall establish policies, procedures, and other rules and regulations necessary to implement the provisions of sections 402.199 to 402.208.

8. The board of trustees is authorized to advise, consult with, coordinate and render services to those departments, agencies, political subdivisions, and governmental instrumentalities of Missouri and of the states adjacent to Missouri, and those not-for-profit organizations that qualify as organizations pursuant to Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, that provide services or support to persons with disabilities who are residents of Missouri or one of the states adjacent to Missouri.

9. The assets of the board of trustees shall not be considered state money, assets of the state or revenue for any purposes of the state constitution or statutes. The property of the board of trustees and its income and operations shall be exempt from all taxation by the state or any of its political subdivisions.

10. No trustee or any member of the board of trustees, co-trustee, or successor co-trustee serving pursuant to the provisions of sections 402.200 to 402.208 shall at any time be held liable for any mistake of law or fact, or of both law and fact, or errors of judgment, nor for any loss sustained as a result thereof, unless such trustee, co-trustee, or successor co-trustee acted in bad faith or with reckless indifference to the terms of the trust or the interest of the beneficiary.

**402.202. TRUST ACCOUNTS, RESTRICTED TRUST ACCOUNTS, CHARITABLE TRUST — ADMINISTERED AS MISSOURI FAMILY TRUST — POOLING PERMITTED — ADDITIONAL BOARD POWERS. — 1.** Trust accounts, restricted trust accounts, and the charitable trust shall be held and administered in trust as the Missouri family trust. The charitable trust, the restricted accounts and the trust accounts shall each be maintained in trust as separate accounts, but may be pooled for purposes of investment and management. Assets of the Missouri family trust shall not be considered state money, assets of the state or revenue for any purposes of the state constitution or statutes.

**2.** The board of trustees shall act as the trustee of the Missouri family trust. The board of trustees, as trustee, shall administer the Missouri family trust pursuant to the provisions of sections 402.199 to 402.208 and pursuant to the policies, procedures, rules, and regulations of the board of trustees.

**3.** In addition to the powers and duties granted to the board pursuant to sections 402.199 to 402.208, in its capacity as trustee of the trust the board shall have all powers granted to trustees acting under chapter 456, as now in effect or hereafter amended; provided, that section 456.8-813 regarding the duty to inform and report to the beneficiaries shall not apply to the trust, except as mandated under section 456.1-105.

**402.203. CONTRIBUTION OF ASSETS, BY WHOM — TRUST ACCOUNT TO BE CREATED — COTRUSTEES AND SUCCESSORS — BREACH OF FIDUCIARY DUTY, EFFECT OF — DEATH OF BENEFICIARY, PROCEDURE — REMAINDER DISTRIBUTION. — 1.** A beneficiary who is a person with disabilities as defined in Section 1614(a)(3) of the Social Security Act 42 U.S.C. 1382c(a)(3), or the parent, grandparent, or legal guardian of a beneficiary, or a court, as settlor, may contribute assets of the beneficiary in trust to the board as trustee, for the benefit of the beneficiary as part of a pooled trust described by 42 U.S.C. Section 1396p(d)(4)(C). Upon such contribution, the settlor's completion and execution of trust documents provided by the trustee, and the trustee's review, approval and execution of the trust documents, a trust account for the beneficiary shall thereby be created. A trust account to which the assets of a beneficiary are contributed shall be referred to as a "first party trust account" and shall be held and administered in trust for the benefit of the beneficiary as provided in this section.

2. The settlor may designate a co-trustee, and a successor or successors to the co-trustee, to act together with the trustee as trustees of the first-party trust account; provided that the beneficiary may not act as a co-trustee or successor co-trustee; and provided further that court approval of the beneficiary, co-trustee or successor trustee shall be required in connection with any first party trust account created pursuant to section 473.657 or section 475.093.

3. If the board determines, in its good faith judgment, that a co-trustee has breached his or her fiduciary duties, either as a result of an act of commission or omission, then the board may seek removal of such co-trustee and the appointment of a successor co-trustee upon application to a court of competent jurisdiction.

4. At the death of the beneficiary, the board of trustees shall provide notice that the trust account has terminated to each state of which the board of trustees has knowledge that such state has provided medical assistance on behalf of the beneficiary under a state plan for medical assistance under Title 42 of the United States Code. After distribution of twenty-five percent of the principal balance of the trust account to the charitable trust, the board of trustees shall pay over and distribute to such states all amounts remaining in the trust account up to an amount equal to the total medical assistance paid by such states on behalf of the beneficiary under the state plan for medical assistance under Title 42 of the United States Code. In the event that the beneficiary has received medical assistance from more than one state with claims on the proceeds for reimbursement of medical assistance payments under Title 42 of the United States Code and there are insufficient assets to pay the entire balance due to each state then the proceeds shall be distributed to each state on a pro rata basis based upon each state's proportionate share of the total medical assistance paid by all states.

5. To the extent any amounts remain in the trust account after distribution to the charitable trust and the state or states for state reimbursement claims, the remainder shall be distributed to such person, entities, or organizations designated as remainder beneficiaries by the settlor in the trust documents. If any individual remainder beneficiary named by the settlor is not then living, then in the absence of contrary instruction in the trust documents completed by the settlor, such remainder beneficiary's distribution shall be made to such remainder beneficiary's heirs at law, as determined by the laws of the state of the beneficiary's residence at the time of the beneficiary's death.

**402.204. SETTLOR MAY CONTRIBUTE ASSETS — TRUST ACCOUNT CREATED — COTRUSTEES AND SUCCESSORS — BREACH OF FIDUCIARY DUTY, EFFECT OF — DEATH OF BENEFICIARY, PROCEDURE — REMAINDER DISTRIBUTION. — 1.** Any person, as settlor, except a beneficiary or a beneficiary's spouse, may contribute assets not including assets of the beneficiary or the beneficiary's spouse in trust to the board as trustee, for the benefit

of the beneficiary. Upon such contribution, the settlor's completion and execution of trust documents provided by the trustee, and the trustee's review, approval and execution of the trust documents, a trust account for the beneficiary shall thereby be created. A trust account to which assets that do not include assets of a beneficiary or of a beneficiary's spouse are contributed shall be referred to as a "third party trust account", and shall be held and administered in trust for the benefit of the beneficiary as provided in this section.

2. The settlor may designate a co-trustee, and a successor or successors to the co-trustee, to act together with the trustee as trustees of the third party trust account; provided that the beneficiary or the beneficiary's spouse may not act as co-trustee or successor co-trustee; and provided further that court approval of the beneficiary, co-trustee or successor trustee shall be required in connection with any third party trust account created pursuant to subsection 2 of section 473.657.

3. If the board determines, in its good faith judgment, that a co-trustee has breached his or her fiduciary duties, either as a result of an act of commission or omission, then the board may, by written notice to such co-trustee, remove such co-trustee, appoint a successor co-trustee, or serve as sole trustee.

4. At the death of the beneficiary, the board of trustees shall promptly determine the principal balance of the trust account and, after payment of any expenses of the beneficiary as the board may authorize and all fees and expenses of the board, shall distribute to the persons, entities, or organizations designated by the settlor as remainder beneficiaries in the trust documents:

(1) An amount equal to one hundred percent of the principal balance if the beneficiary shall not have received any benefits provided by use of trust account income or principal; or

(2) An amount equal to seventy-five percent of the principal balance if the beneficiary shall have received any benefits provided by use of trust account income or principal; and

(3) Any principal not distributed pursuant to the provisions of subdivision (2) of this subsection, and any undistributed income shall be distributed to the charitable trust established pursuant to the provisions of section 402.207;

(4) If any individual remainder beneficiary named by the settlor is not then living, then in the absence of contrary instructions in the trust documents completed by the settlor, such remainder beneficiary's share shall be distributed to such remainder beneficiary's heirs at law, as determined by the laws of the state of the beneficiary's residence at the time of the beneficiary's death.

5. Notwithstanding the provisions of subsection 4 of this section to the contrary, the settlor may voluntarily agree that a smaller percentage of the principal balance in any trust account established by such settlor than is provided in subsection 4 of this section be distributed to the remainder beneficiaries designated in the trust documents; and that a corresponding larger percentage of the principal balance in such trust account be distributed either to the charitable trust or to a designated restricted account within the charitable trust.

**402.205. WITHDRAWAL FROM TRUST ACCOUNT, WHEN — REVOCATION OR TERMINATION OF TRUST, WHEN, DISTRIBUTION — TRUST PRINCIPAL AND INCOME HELD FOR BENEFIT OF BENEFICIARY. — 1.** [The families, friends and guardians of persons who have a disability or are eligible for services provided by the department of mental health, or both, may participate in a trust which may supplement the care, support, and treatment of such persons pursuant to the provisions of sections 402.199 to 402.220. Neither the contribution to the trust for the benefit of a life beneficiary nor the use of trust income to provide benefits shall in any way reduce, impair or diminish the benefits to which such person is otherwise entitled by law; and the



administration of the trust shall not be taken into consideration in appropriations for the department of mental health to render services required by law.

2. Unless otherwise prohibited by federal statutes or regulations, all state agencies shall disregard the trust as a resource when determining eligibility of Missouri residents for assistance under chapter 208.

3. The assets of the board of trustees and assets held in trust pursuant to the provisions of sections 402.199 to 402.220 shall not be considered state money, assets of the state or revenue for any purposes of the state constitution or statutes. The property of the board of trustees and its income and operations shall be exempt from all taxation by the state or any of its political subdivisions.] **The settlor of a revocable third party trust account or the co-trustee of a revocable third party trust account if authorized by the settlor in the trust documents, upon written notice to the board and with the board's consent may, from time to time, withdraw such part of the trust account as the settlor or such authorized co-trustee may determine; provided, however, neither the settlor nor such authorized co-trustee may withdraw an amount that when aggregated with all withdrawals within the prior twelve months shall reduce the remaining principal balance of the trust account below the greater of the amount due the board, if the trust account had terminated at the time of such withdrawal or the minimum amount required by the board, from time to time, for an account.**

**2. The settlor of a revocable third party trust account or the co-trustee of a revocable third party trust account if authorized by the settlor in the trust documents, upon written notice to the board and with the board's consent may revoke and terminate the trust account. Upon receipt of such notice, the board shall promptly determine the principal balance of the trust account and after payment of all fees and expenses of the board shall distribute:**

**(1) In the case of revocation and termination by the settlor:**

**(a) An amount equal to one hundred percent of the principal balance to the settlor if the beneficiary shall not have received any benefits provided by use of trust account income or principal; or**

**(b) An amount equal to seventy-five percent of the principal balance to the settlor if the beneficiary shall have received any benefits provided by use of trust account income or principal; and**

**(c) Any principal not distributed pursuant to the provisions of paragraph (b) of this subdivision, and any undistributed income to the charitable trust;**

**(2) In the case of revocation and termination by an authorized co-trustee:**

**(a) An amount equal to one hundred percent of the principal balance shall be distributed to the trustees of the standby trust, if the beneficiary shall not have received any benefits provided by use of trust account income or principal, to be held, administered, and distributed in accordance with the provisions of subsection 3 of this section; or**

**(b) An amount equal to seventy-five percent of the then principal balance shall be distributed to the trustees of the standby trust, if the beneficiary shall have received any benefits provided by use of trust account income or principal, to be held, administered, and distributed in accordance with the provisions of subsection 3 of this section; and**

**(c) Any principal not distributed pursuant to the provisions of paragraph (b) of this subdivision, and any undistributed income shall be distributed to the charitable trust.**

**3. The trustee or trustees of the standby trust shall hold, administer, and distribute the principal and income of the standby trust, in the discretion of such trustee, for the support, health, education, and general well-being of the beneficiary during the beneficiary's life, recognizing that it is the purpose of the standby trust to supplement, not replace, any government benefits for the beneficiary's basic support to which such beneficiary may be entitled and to increase the quality of such beneficiary's life by providing the beneficiary**

those amenities which cannot otherwise be provided by public assistance or entitlements or other available sources. Permissible expenditures include, but are not limited to, those described in subdivision (2) of section 402.206.

**402.206. FIRST AND THIRD PARTY TRUSTS, ACCOUNT HELD AND ADMINISTERED, HOW.** — Each first party trust account and third party trust account shall be held and administered in trust as follows:

(1) The board of trustees shall hold, administer, and distribute the principal and income of the trust account, in the discretion of the trustee, in consultation with the co-trustee, for the health, education, and general well-being of the beneficiary, recognizing that the purpose of the trust account is to supplement, not replace, any government benefits for the beneficiary's basic support to which such beneficiary may be entitled;

(2) Expenditure of trust account funds shall be made solely for benefit of the beneficiary, to increase the quality of the beneficiary's life by providing those amenities that cannot otherwise be provided by public assistance or entitlements or other available sources. Permissible expenditures include, but are not limited to, dental, medical, and diagnostic work or treatment that is not otherwise available from public benefits or assistance; private rehabilitative training; supplementary education aid; entertainment; periodic vacations and outings; expenditures to foster the interests, talents, and hobbies of the beneficiary; and expenditures to purchase personal property and services that will make life more comfortable and enjoyable for the beneficiary but that will not defeat his or her eligibility for public benefits or assistance. The trustee, with consultation of the co-trustee, may make payments for a person to accompany the beneficiary on vacations and outings and for the transportation of the beneficiary or of friends and relatives of the beneficiary to visit the beneficiary;

(3) Expenditures of trust account funds shall not be made for the primary support or maintenance of the beneficiary, including basic food or shelter, if, as a result, the beneficiary would no longer be eligible to receive public benefits or assistance to which the beneficiary is then entitled;

(4) The co-trustee, with consent of the trustee, shall not less frequently than annually determine the amount of income or principal or income and principal which may be used to provide noncash benefits and the nature and type of benefits to be provided for the beneficiary. Any net income which is not used shall be added to the principal annually;

(5) In the event that the trustee and the co-trustee shall be unable to agree either on:

- (a) The amount of income or principal to be used;
- (b) The benefits to be provided; or
- (c) The administration of the trust account,

then the co-trustee shall have the right to appeal the decision of the trustee in accordance with the rules and regulations established by the board.

**402.207. CHARITABLE TRUST ESTABLISHED, WHEN.** — 1. The board of trustees shall establish a charitable trust for the benefit of individuals with disabilities.

2. The board of trustees shall accept contributions to the charitable trust at the termination of trust accounts and other contributions from donors in accordance with policies and procedures adopted by the board of trustees.

3. The trustees shall as necessary determine the amount of income and principal of the charitable trust to be used to provide benefits for individuals with disabilities. Benefits provided shall only be those that have no negative effect on the individual's entitlement to government benefits. Any income not used to provide benefits shall be added to the principal annually.

4. Any person with the consent of the board of trustees may establish a restricted account within the charitable trust and may determine, with the consent of the board of trustees, the class of individuals eligible to be recipients of funds from the restricted account, so long as the eligible recipients are individuals with disabilities as set forth in section 402.200.

**402.208. FEES AUTHORIZED — PERIODIC REPORTS — NO PROPERTY INTEREST IN TRUST ACCOUNT, WHEN.** — 1. The board may establish and collect fees for administering trust accounts established pursuant to the provisions of sections 402.199 to 402.220.

2. The board shall establish policies and procedures for providing periodic reports to the co-trustees of each trust account established pursuant to the provisions of sections 402.199 to 402.220.

3. (1) No beneficiary shall have any vested or property rights or interests in any trust account, nor shall any beneficiary have the power to anticipate, assign, convey, alienate, or otherwise encumber any interest in the income or principal of any trust account.

(2) The income or the principal or any interest of any beneficiary in the trust account shall not be liable for any debt incurred by such beneficiary, nor shall the principal or income of any trust account be subject to seizure by any creditor or any beneficiary under any writ or proceeding in law or in equity.

4. Except for the right of a settlor to withdraw from or revoke any revocable trust account under section 402.205, and the right of any acting co-trustee, other than the original settlor, to withdraw all or a portion of the principal balance of a revocable trust account under section 402.205, neither the settlor nor any acting co-trustee shall have the right to sell, assign, convey, alienate, or otherwise encumber, for consideration or otherwise, any interest in the income or principal of the trust account. The income or the principal or any interest of any beneficiary of a revocable trust account shall not be liable for any debt incurred by the settlor or any acting co-trustee, nor shall the principal or income of the trust account be subject to seizure by any creditor of any settlor or any acting co-trustee under any writ or proceeding in law or in equity.

**473.657. DISTRIBUTION.** — 1. Distribution to a distributee may be made to the distributee or to a person holding a power of attorney properly executed by the distributee in accordance with the law of the place of execution, or to the distributee's personal representative, guardian, or conservator.

2. Distribution may be made to the trustees of a trust **account** established pursuant to sections 402.199 to [402.225] **402.208** if the court finds that [such distribution] **the distributee qualifies as a life beneficiary under subdivision (1) of section 402.200 and that such distribution** would be in the best interest of the distributee as prescribed by section 475.093.

**475.093. COURT MAY AUTHORIZE PARTICIPATION IN FAMILY TRUST.** — 1. If the court finds that the establishment of a trust would be in the protectee's best interest, the court may authorize the establishment of a trust **account** for the benefit of a protectee pursuant to sections 402.199 to [402.255] **402.208**, if it finds that the protectee qualifies as a life beneficiary pursuant to **subdivision (1) of section [402.205] 402.200**, or the court may authorize the establishment of such trust for the benefit of a protectee pursuant to section 475.092.

2. A trust **account** established pursuant to sections 402.199 to [402.225] **402.208** will be in the best interest of the protectee, notwithstanding the fact that a sum not exceeding twenty-five percent of the principal balance as defined in subdivision [(7)] **(9)** of section 402.200 will be distributed to the charitable trust **of the Missouri family trust** as prescribed by section [402.215] **402.203**.

**[402.210. BOARD OF TRUSTEES — MEMBERS, APPOINTMENT, TERM, QUALIFICATIONS, EXPENSES — ANNUAL ACCOUNTING — RULES AND REGULATIONS. —** 1. There is hereby created the "Missouri Family Trust Board of Trustees", which shall be a body corporate and an instrumentality of the state. The board of trustees shall consist of nine persons appointed by the governor with the advice and consent of the senate. The members' terms of office shall be three years and until their successors are appointed and qualified. The trustees shall be persons who are not prohibited from serving by sections 105.450 to 105.482 and who are not otherwise employed by the department of mental health. The board of trustees shall be composed of the following:

(1) Three members of the immediate family of persons who have a disability or are the recipients of services provided by the department in the treatment of mental illness. The advisory council for comprehensive psychiatric services, created pursuant to section 632.020, shall submit a panel of nine names to the governor, from which he shall appoint three. One shall be appointed for a term of one year, one for two years, and one for three years. Thereafter, as the term of a trustee expires each year, the Missouri advisory council for comprehensive psychiatric services shall submit to the governor a panel of not less than three nor more than five proposed trustees, and the governor shall appoint one trustee from such panel for a term of three years;

(2) Three members of the immediate family of persons who are recipients of services provided by the department in the habilitation of the mentally retarded or developmentally disabled. The Missouri advisory council on mental retardation and developmental disabilities, created pursuant to section 633.020, shall submit a panel of nine names to the governor, from which he shall appoint three. One shall be appointed for one year, one for two years and one for three years. Thereafter, as the term of a trustee expires each year, the Missouri advisory council on mental retardation and developmental disabilities shall submit to the governor a panel of not less than three nor more than five proposed trustees, and the governor shall appoint one trustee from such panel for a term of three years;

(3) Three persons who are recognized for their expertise in general business matters and procedures. Of the three business people to be appointed by the governor, one shall be appointed for one year, one for two years and one for three years. Thereafter, as the term of a trustee expires each year, the governor shall appoint one business person as trustee for a term of three years.

2. The trustees shall receive no compensation for their services. The trust shall reimburse the trustees for necessary expenses actually incurred in the performance of their duties.

3. As used in this section, the term "immediate family" includes spouse, parents, parents of spouse, children, spouses of children and siblings.

4. The board of trustees shall be subject to the provisions of sections 610.010 to 610.120.

5. The board of trustees shall annually prepare or cause to be prepared an accounting of the trust funds and shall transmit a copy of the accounting to the governor, the president pro tempore of the senate and the speaker of the house of representatives.

6. The board of trustees shall establish policies, procedures and other rules and regulations necessary to implement the provisions of sections 402.199 to 402.220.]

**[402.210. BOARD OF TRUSTEES — MEMBERS, APPOINTMENT, TERM, QUALIFICATIONS, EXPENSES — ANNUAL ACCOUNTING — RULES AND REGULATIONS. —** 1. There is hereby created the "Missouri Family Trust Board of Trustees", which shall be a body corporate and an instrumentality of the state. The

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board of trustees shall consist of nine persons appointed by the governor with the advice and consent of the senate. The members' terms of office shall be three years and until their successors are appointed and qualified. The trustees shall be persons who are not prohibited from serving by sections 105.450 to 105.482 and who are not otherwise employed by the department of mental health. The board of trustees shall be composed of the following:

(1) Three members of the immediate family of persons who have a disability or are the recipients of services provided by the department in the treatment of mental illness. The advisory council for comprehensive psychiatric services, created pursuant to section 632.020, shall submit a panel of nine names to the governor, from which he shall appoint three. One shall be appointed for a term of one year, one for two years, and one for three years. Thereafter, as the term of a trustee expires each year, the Missouri advisory council for comprehensive psychiatric services shall submit to the governor a panel of not less than three nor more than five proposed trustees, and the governor shall appoint one trustee from such panel for a term of three years;

(2) Three members of the immediate family of persons who are recipients of services provided by the department in the habilitation of [the mentally retarded or developmentally disabled] persons with intellectual disabilities or developmental disabilities. The Missouri [advisory council on mental retardation and] developmental disabilities **council**, created pursuant to section 633.020, shall submit a panel of nine names to the governor, from which he shall appoint three. One shall be appointed for one year, one for two years and one for three years. Thereafter, as the term of a trustee expires each year, the Missouri [advisory council on mental retardation and] developmental disabilities **council** shall submit to the governor a panel of not less than three nor more than five proposed trustees, and the governor shall appoint one trustee from such panel for a term of three years;

(3) Three persons who are recognized for their expertise in general business matters and procedures. Of the three business people to be appointed by the governor, one shall be appointed for one year, one for two years and one for three years. Thereafter, as the term of a trustee expires each year, the governor shall appoint one business person as trustee for a term of three years.

2. The trustees shall receive no compensation for their services. The trust shall reimburse the trustees for necessary expenses actually incurred in the performance of their duties.

3. As used in this section, the term "immediate family" includes spouse, parents, parents of spouse, children, spouses of children and siblings.

4. The board of trustees shall be subject to the provisions of sections 610.010 to 610.120.

5. The board of trustees shall annually prepare or cause to be prepared an accounting of the trust funds and shall transmit a copy of the accounting to the governor, the president pro tempore of the senate and the speaker of the house of representatives.

6. The board of trustees shall establish policies, procedures and other rules and regulations necessary to implement the provisions of sections 402.199 to 402.220.]

**[402.215. BOARD OF TRUSTEES, DUTIES — PROVISIONS FOR TRUST DOCUMENTS. —** 1. The board of trustees is authorized and directed to establish and administer the Missouri family trust and to advise, consult with, and render services to departments and agencies of the state of Missouri and to other nonprofit organizations which qualify as organizations pursuant to Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and which provide services to Missouri

residents with a disability. The board shall be authorized to execute all documents necessary to establish and administer the trust including the formation of a not-for-profit corporation created pursuant to chapter 355 and to qualify as an organization pursuant to Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended.

2. The trust documents shall include and be limited by the following provisions:

(1) The Missouri family trust shall be authorized to accept contributions from any source including trustees, personal representatives, personal custodians pursuant to chapter 404, and other fiduciaries, and, subject to the provisions of subdivision (11) of this subsection, from the life beneficiaries and their respective spouses, to be held, administered, managed, invested and distributed in order to facilitate the coordination and integration of private financing for individuals who have a disability or are eligible for services provided by the Missouri department of mental health, or both, while maintaining the eligibility of such individuals for government entitlement funding. All contributions, and the earnings thereon, shall be administered as one trust fund; however, separate accounts shall be established for each designated beneficiary. The income earned, after deducting administrative expenses, shall be credited to the accounts of the respective life beneficiaries in proportion to the principal balance in the account for each such life beneficiary, to the total principal balances in the accounts for all life beneficiaries;

(2) Every donor may designate a specific person as the life beneficiary of the contribution made by such donor. In addition, each donor may name a cotrustee, including the donor, and a successor or successors to the cotrustee, to act with the trustees of the trust on behalf of the designated life beneficiary; provided, however, a life beneficiary shall not be eligible to be a cotrustee or a successor cotrustee; provided, however, that court approval of the specific person designated as life beneficiary and as cotrustee or successor trustee shall be required in connection with any trust created pursuant to section 473.657 or section 475.093;

(3) The cotrustee, with the consent of the trust, shall from time to time but not less frequently than annually determine the amount of income or principal or income and principal to be used to provide noncash benefits and the nature and type of benefits to be provided for the life beneficiary. Any net income which is not used shall be added to principal annually. In the event that the trust and the cotrustee shall be unable to agree either on the amount of income or principal or income and principal to be used or the benefits to be provided, then either the trust or the cotrustee shall have the right to request that the matter be resolved by arbitration which shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The requesting party shall send a written request for arbitration to the responding party and shall in such request set forth the name, address and telephone number of such requesting party's arbitrator. The responding party shall, within ten days after receipt of the request for arbitration, set forth in writing to the requesting party the name, address and telephone number of the responding party's arbitrator. Copies of the request for arbitration and response shall be sent to the director of the department. If the two designated arbitrators shall be unable to agree upon a third arbitrator within ten days after the responding party shall have identified such party's arbitrator, then the director of the department shall designate the third arbitrator by written notice to the requesting and responding parties' arbitrators. The three arbitrators shall meet, conduct a hearing, and render a decision within thirty days after the appointment of the third arbitrator. A decision of a majority of the arbitrators shall be binding upon the requesting and responding parties. Each party shall pay the fees and expenses of such party's arbitrator and the fees and expenses of the third arbitrator shall be borne equally by the parties. Judgment on the arbitrators' award may be entered in any court of competent jurisdiction;

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(4) Any donor, during his or her lifetime, except for a trust created pursuant to section 473.657 or section 475.093, may revoke any gift made to the trust; provided, however, any donor may, at any time, voluntarily waive the right to revoke. In the event that at the time the donor shall have revoked his or her gift to the trust the life beneficiary shall not have received any benefits provided by use of trust income or principal, then an amount equal to one hundred percent of the principal balance shall be returned to the donor. Any undistributed net income shall be distributed to the charitable trust. In the event that at the time the donor shall have revoked his or her gift to the trust the life beneficiary shall have received any benefits provided by the use of trust income or principal, then an amount equal to ninety percent of the principal balance shall be returned to the donor. The balance of the principal balance together with all undistributed net income shall be distributed to the charitable trust;

(5) Any acting cotrustee, except a cotrustee of a trust created pursuant to section 473.657 or section 475.093, other than the original donor of a life beneficiary's account, shall have the right, for good and sufficient reason upon written notice to the trust and the department stating such reason, to withdraw all or a portion of the principal balance. In such event, the applicable portion, as set forth in subdivision (7) of this subsection, of the principal balance shall then be distributed to the successor trust and the balance of the principal balance together with any undistributed net income shall be distributed to the charitable trust;

(6) In the event that a life beneficiary for whose benefit a contribution or contributions shall have been made to the family trust shall cease to be eligible for services provided by the department of mental health and neither the donor nor the then acting cotrustee, except a cotrustee of a trust created pursuant to section 473.657 or section 475.093, shall revoke or withdraw the applicable portion, as set for in subdivision (7) of this subsection, of the principal balance, then the board of trustees may, by written notice to such donor or acting cotrustee, terminate the trust as to such beneficiary and thereupon shall distribute the applicable portion, as set forth in subdivision (7) of this subsection, of the principal balance, to the trustee of the successor trust to be held, administered and distributed by such trustee in accordance with the provisions of the successor trust described in subdivision (12) of this subsection;

(7) If at the time of withdrawal or termination as provided in subdivision (6) of this subsection of a life beneficiary's account from the trust either the life beneficiary shall not have received any benefits provided by the use of the trust income or principal or the life beneficiary shall have received benefits provided by the use of trust income or principal for a period of not more than five years from the date a contribution shall have first been made to the trust for such life beneficiary, then an amount equal to ninety percent of the principal balance shall be distributed to the successor trust, and the balance of the principal balance together with all undistributed net income shall be distributed to the charitable trust; provided, however, if the life beneficiary at the time of such withdrawal by the cotrustee or termination as provided above shall have received any benefits provided by the use of trust income or principal for a period of more than five years from the date a contribution shall have first been made to the trust for such life beneficiary, then an amount equal to seventy-five percent of the principal balance shall be distributed to the successor trust, and the balance of the principal balance together with all undistributed net income shall be distributed to the charitable trust;

(8) Subject to the provisions of subdivision (9) of this subsection, if the life beneficiary dies before receiving any benefits provided by the use of trust income or principal, then an amount equal to one hundred percent of the principal balance shall be distributed to such person or persons as the donor shall have designated. Any undistributed net income shall be distributed to the charitable trust. If at the time of

death of the life beneficiary, the life beneficiary shall have been receiving benefits provided by the use of trust income or principal or income and principal, then, in such event, an amount equal to seventy-five percent of the principal balance shall be distributed to such person or persons as the donor designated, and the balance of the principal balance, together with all undistributed net income, shall be distributed to the charitable trust;

(9) In the event the trust is created as a result of a distribution from a personal representative of an estate of which the life beneficiary is a distributee, then if the life beneficiary dies before receiving any benefits provided by the use of trust income or principal, an amount equal to one hundred percent of the principal balance shall be distributed to such person or persons who are the life beneficiary's heirs at law. Any undistributed income shall be distributed to the charitable trust. If at the time of death of the life beneficiary the life beneficiary shall have been receiving benefits provided by the use of trust income or principal or income and principal, then, an amount equal to seventy-five percent of the principal balance shall be distributed to such person or persons who are the life beneficiary's heirs at law. The balance of the principal balance together with all undistributed income shall be distributed to the charitable trust. If there are no heirs at the time of either such distribution, the then-principal balance together with all undistributed income shall be distributed to the charitable trust;

(10) In the event the trust is created as a result of the recovery of damages by reason of a personal injury to the life beneficiary, then if the life beneficiary dies before receiving any benefits provided by the use of trust income or principal, the state of Missouri shall receive all amounts remaining in the life beneficiary's account up to an amount equal to the total medical assistance paid on behalf of such life beneficiary under a state plan under Title 42 of the United States Code, and then to the extent there is any amount remaining in the life beneficiary's account, an amount equal to one hundred percent of the principal balance shall be distributed to such person or persons who are the life beneficiary's heirs at law. If there are no heirs, the balance, if any, of the principal balance together with all undistributed income shall be distributed to the charitable trust. If at the time of death of the life beneficiary the life beneficiary should have been receiving benefits provided by the use of trust income or principal or income and principal then the state of Missouri shall receive all amounts remaining in the life beneficiary's account up to an amount equal to the total medical assistance paid on behalf of such life beneficiary under a state plan under Title 42 of the United States Code, and then to the extent there is any amount remaining in the life beneficiary's account, an amount equal to seventy-five percent of the principal balance shall be distributed to such person or persons who are the life beneficiary's heirs at law and the balance of the principal balance together with all undistributed income shall be distributed to the charitable trust. If there are no heirs, the balance of the principal balance, together with all undistributed income, shall be distributed to the charitable trust;

(11) In the event an account is established with the assets of the beneficiary by the beneficiary, a family member, the beneficiary's guardian, or pursuant to a court order, all in accordance with Title 42 of the United States Code Section 1396p(d)(4)(C), then upon the death of the life beneficiary the state of Missouri shall receive all amounts remaining in the life beneficiary's account up to an amount equal to the total medical assistance paid on behalf of such life beneficiary under a state plan under Title 42 of the United States Code, and then to the extent there is any amount remaining in the life beneficiary's account, an amount equal to seventy-five percent of the principal balance shall be distributed to such person or persons who are the life beneficiary's heirs at law and the balance of the principal balance together with all undistributed income shall be

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distributed to the charitable trust. If there are no heirs, the balance of the principal balance together with all undistributed income shall be distributed to the charitable trust;

(12) Notwithstanding the provisions of subdivisions (4) to (8) of this subsection to the contrary, the donor may voluntarily agree to a smaller percentage of the principal balance in any account established by such donor than is provided in this subsection to be returned to the donor or distributed to the successor trust, as the case may be; and a corresponding larger percentage of the principal balance in such account to be distributed either to the charitable trust or to a designated restricted account within the charitable trust;

(13) Upon receipt of a notice of withdrawal from a designated cotrustee, other than the original donor, and a determination by the board of trustees that the reason for such withdrawal is good and sufficient, or upon the issuance of notice of termination by the board of trustees, the board of trustees shall distribute and pay over to the designated trustee of the successor trust the applicable portion of the principal balance as set forth in subdivision (7) of this subsection; provided, however, that court approval of distribution to a successor trustee shall be required in connection with any trust created pursuant to section 473.657 or section 475.093. The designated trustee of the successor trust shall hold, administer and distribute the principal and income of the successor trust, in the discretion of such trustee, for the maintenance, support, health, education and general well-being of the beneficiary, recognizing that it is the purpose of the successor trust to supplement, not replace, any government benefits for the beneficiary's basic support to which such beneficiary may be entitled and to increase the quality of such beneficiary's life by providing the beneficiary with those amenities which cannot otherwise be provided by public assistance or entitlements or other available sources. Permissible expenditures include, but are not limited to, more sophisticated dental, medical and diagnostic work or treatment than is otherwise available from public assistance, private rehabilitative training, supplementary education aid, entertainment, periodic vacations and outings, expenditures to foster the interests, talents and hobbies of the beneficiary, and expenditures to purchase personal property and services which will make life more comfortable and enjoyable for the beneficiary but which will not defeat his or her eligibility for public assistance. Expenditures may include payment of the funeral and burial costs of the beneficiary. The designated trustee, in his or her discretion, may make payments from time to time for a person to accompany the beneficiary on vacations and outings and for the transportation of the beneficiary or of friends and relatives of the beneficiary to visit the beneficiary. Any undistributed income shall be added to the principal from time to time. Expenditures shall not be made for the primary support or maintenance of the beneficiary, including basic food, shelter and clothing, if, as a result, the beneficiary would no longer be eligible to receive public benefits or assistance to which the beneficiary is then entitled. After the death and burial of the beneficiary, the remaining balance of the successor trust shall be distributed to such person or persons as the donor shall have designated;

(14) The charitable trust shall be administered as part of the family trust, but as a separate account. The income attributable to the charitable trust shall be used to provide benefits for individuals who have a disability or who are eligible for services provided by or through the department and who either have no immediate family or whose immediate family, in the reasonable opinion of the trustees, is financially unable to make a contribution to the trust sufficient to provide benefits for such individuals, while maintaining such individuals' eligibility for government entitlement funding. The trustees may from time to time determine to use part of the principal of the charitable trust to provide such benefits. As used in this section, the term "immediate family" includes parents, children and siblings. The individuals to be beneficiaries of the charitable trust

shall be recommended to the trustees by the department and others from time to time. The trustees shall annually determine the amount of charitable trust income or principal to be used to provide benefits and the nature and type of benefits to be provided for each identified beneficiary of the charitable trust. Any income not used shall be added to principal annually;

(15) Any person, with the consent of the board of trustees, may establish a restricted account within the charitable trust and shall be permitted to determine, with the consent of the board of trustees, the beneficiaries of such restricted account provided such beneficiaries qualify as participants of the trust as set forth in subsection 1 of section 402.205.]

**[402.217. RESTRICTIONS — INCOME NOT SUBJECT TO SEIZURE — CERTAIN INTERESTS IN INCOME NOT ALIENABLE. —** 1. No beneficiary shall have any vested or property rights or interests in the family trust, nor shall any beneficiary have the power to anticipate, assign, convey, alienate, or otherwise encumber any interest in the income or principal of the family trust, nor shall such income or the principal or any interest of any beneficiary thereunder be liable for any debt incurred by such beneficiary, nor shall the principal or income of the family trust be subject to seizure by any creditor or any beneficiary under any writ or proceeding in law or in equity.

2. Except for the right of a donor to revoke any gift made to the trust, pursuant to subdivision (4) of subsection 2 of section 402.215, and the right of any acting cotrustee, other than the original donor, to withdraw all or a portion of the principal balance, pursuant to subdivision (5) of subsection 2 of section 402.215, neither the donor nor any acting cotrustee shall have the right to sell, assign, convey, alienate or otherwise encumber, for consideration or otherwise, any interest in the income or principal of the family trust, nor shall such income or the principal or any interest of any beneficiary thereunder be liable for any debt incurred by the donor or any acting cotrustee, nor shall the principal or income of the family trust be subject to seizure by any creditor of any donor or any acting cotrustee under any writ or proceeding in law or in equity.]

**[402.220. LIABILITY OF TRUSTEES, LIMITATIONS ON. —** No trustee, cotrustee or successor cotrustee serving pursuant to the provisions of sections 402.200 to 402.220 shall at any time be held liable for any mistake of law or fact, or of both law and fact, or errors of judgment, nor for any loss sustained by the trust estate or by any beneficiary under the provisions of sections 402.200 to 402.220, or by any other person, except through actual fraud or willful misconduct on the part of such trustee, cotrustee or successor cotrustee.]

Approved July 5, 2011

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## SB 77 [HCS SB 77]

**EXPLANATION —** Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**Expands the types of directional signs which may be erected and maintained within highway right-of-ways.**

AN ACT to repeal sections 226.520 and 227.410, RSMo, and to enact in lieu thereof six new sections relating to roadway signs.

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## SECTION

- A. Enacting clause.
- 226.520. Permitted signs — specifications.
- 227.410. Rabbi Ernest I. Jacob Memorial Highway designated for portion of Highway 160 in Greene County.
- 227.424. Missouri State Highway Patrol Sergeant Joseph G. Schuengel Memorial Highway designated for portion of I-40/64 in St. Louis County.
- 227.425. Truman/Eisenhower Presidential Highway designated for portion of I-70 from City of Independence to Kansas state line.
- 227.429. Representative Otto Bean Memorial Highway designated for a portion of Highway 25 in Dunklin and Stoddard counties.
- 227.430. SFC Wm. Brian Woods, Jr. Memorial Highway designated for portion of Highway 30 in Jefferson County.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 226.520 and 227.410, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 226.520, 227.410, 227.424, 227.425, 227.429, and 227.430, to read as follows:

**226.520. PERMITTED SIGNS — SPECIFICATIONS.** — On and after March 30, 1972, no outdoor advertising shall be erected or maintained within six hundred sixty feet of the nearest edge of the right-of-way and visible from the main traveled way of any highway which is part of the federal-aid primary highways as of June 1, 1991, and all highways designated as part of the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System in this state except the following:

(1) Directional and other official signs, including, but not limited to, signs pertaining to natural wonders, scenic, **cultural (including agricultural activities or attractions), scientific, educational, religious sites**, and historical attractions, which are required or authorized by law, and which comply with regulations which shall be promulgated by the department relative to their lighting, size, number, spacing and such other requirements as may be appropriate to implement sections 226.500 to 226.600, but such regulations shall not be inconsistent with, nor more restrictive than, such national standards as may be promulgated from time to time by the Secretary of the Department of Transportation of the United States, under subsection (c) of Section 131 of Title 23 of the United States Code;

(2) Signs, displays, and devices advertising activities conducted on the property upon which they are located, or services and products therein provided;

(3) Outdoor advertising located in areas which are zoned industrial, commercial or the like as provided in sections 226.500 to 226.600 or under other authority of law;

(4) Outdoor advertising located in unzoned commercial or industrial areas as defined and determined pursuant to sections 226.500 to 226.600;

(5) Outdoor advertising for tourist-oriented businesses, and scoreboards used in sporting events or other electronic signs with changeable messages which are not prohibited by federal regulations or local zoning ordinances. Outdoor advertising which is authorized by this subdivision (5) shall only be allowed to the extent that such outdoor advertising is not prohibited by Title 23, United States Code, Section 131, as now or thereafter amended, and lawful regulations promulgated thereunder. The general assembly finds and declares it to be the policy of the state of Missouri that the tourism industry is of major and critical importance to the economic well-being of the state and that directional signs, displays and devices providing directional information about goods and services in the interest of the traveling public are essential to the economic welfare of the tourism industry. The general assembly further finds and declares that the removal of directional signs advertising tourist-oriented businesses is harmful to the tourism industry in Missouri and that the removal of directional signs within or near areas of the state where there is high concentration of tourist-oriented businesses would have a particularly harmful effect upon the economies within such areas. The state highways and transportation commission is

authorized and directed to determine those specific areas of the state of Missouri in which there is high concentration of tourist-oriented businesses, and within such areas, no directional signs, displays and devices which are lawfully erected, which are maintained in good repair, which provide directional information about goods and services in the interest of the traveling public, and which would otherwise be required to be removed because they are not allowed to be maintained under the provisions of sections 226.500 through 226.600 shall be required to be removed until such time as such removal has been finally ordered by the United States Secretary of Transportation;

(6) The provisions of this section shall not be construed to require removal of signs advertising churches or items of religious significance, items of native arts and crafts, woodworking in native products, or native items of artistic, historical, geologic significance, or hospitals or airports.

**227.410. RABBI ERNEST I. JACOB MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF HIGHWAY 160 IN GREENE COUNTY.** — [The portion of U.S. Highway 160 in Greene County from the intersection of Farm Road 142 to the intersection of West Sunshine Street shall be designated the "Rabbi Abraham Joshua Heschel Memorial Highway".] **The portion of U.S. Highway 160 in Greene County from the intersection of West Mount Vernon Street to one-half mile south of the intersection of West Sunshine Street shall be designated the "Rabbi Ernest I. Jacob Memorial Highway".** The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs for such designation to be paid for by private donation.

**227.424. MISSOURI STATE HIGHWAY PATROL SERGEANT JOSEPH G. SCHUENGEL MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF I-40/64 IN ST. LOUIS COUNTY.** — The portion of Interstate 40/64 in St. Louis County from the Boone's Crossing overpass at mile marker 17.0 west to the Spirit of St. Louis Airport overpass at mile marker 13.8 shall be designated as the "Missouri State Highway Patrol Sergeant Joseph G. Schuengel Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs to be paid for by private donations.

**227.425. TRUMAN/EISENHOWER PRESIDENTIAL HIGHWAY DESIGNATED FOR PORTION OF I-70 FROM CITY OF INDEPENDENCE TO KANSAS STATE LINE.** — **1.** The portion of Interstate 70 from the eastern city limits of Independence west to the Kansas state line shall be designated the "Truman/Eisenhower Presidential Highway", with signs erected at both ends of the designated highway. At a later point in time, two signs designating such highway may be placed at the intersection of Interstate 70 and Interstate 435, and two signs may be placed at the intersection of Interstate 70 and Interstate 29/35. All appropriate signage shall be paid for, prior to installation, by private donations.

**2.** The naming of the Truman/Eisenhower Presidential Highway under this section shall be contingent upon the designation by the state of Kansas of the portion of Interstate 70 in Kansas from the Missouri state line west to Abilene, Kansas, as the "Eisenhower/Truman Presidential Highway".

**227.429. REPRESENTATIVE OTTO BEAN MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF HIGHWAY 25 IN DUNKLIN AND STODDARD COUNTIES.** — The portion of Highway 25 from US Route 412 to Route U/Route Z in Dunklin and Stoddard counties shall be designated the "Representative Otto Bean Memorial Highway". The department

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of transportation shall erect and maintain appropriate signs designating such highway, with the cost to be paid for by private donations.

**227.430. SFC WM. BRIAN WOODS, JR. MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF HIGHWAY 30 IN JEFFERSON COUNTY. — The portion of Missouri Highway 30 from State Route NN north three miles to one tenth of a mile southwest of old Missouri 30 in Jefferson County shall be designated the "SFC Wm. Brian Woods, Jr. Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the cost to be paid for by private donations.**

Approved July 8, 2011

## SB 81 [CCS SCS SB 81]

**EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

**Modifies provisions relating to fine arts education.**

AN ACT to repeal sections 143.183, 163.037, and 165.011, RSMo, and to enact in lieu thereof three new sections relating to education, with an emergency clause for certain sections.

### SECTION

- A. Enacting clause.
- 143.183. Professional athletes and entertainers, state income tax revenues from nonresidents — transfers to Missouri arts council trust fund, Missouri humanities council trust fund, Missouri state library networking fund, Missouri public television broadcasting corporation special fund and Missouri historic preservation revolving fund.
- 162.1195. Fine arts, professional development education assistance.
- 165.011. Tuition — accounting of school moneys, funds — uses — transfers to and from incidental fund, when — effect of unlawful transfers — transfers to debt service fund, when.
- 163.037. Weighted average daily attendance to include portion of summer school average daily attendance, when.
- B. Emergency clause.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 143.183, 163.037, and 165.011, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 143.183, 162.1195, and 165.011, to read as follows:

**143.183. PROFESSIONAL ATHLETES AND ENTERTAINERS, STATE INCOME TAX REVENUES FROM NONRESIDENTS — TRANSFERS TO MISSOURI ARTS COUNCIL TRUST FUND, MISSOURI HUMANITIES COUNCIL TRUST FUND, MISSOURI STATE LIBRARY NETWORKING FUND, MISSOURI PUBLIC TELEVISION BROADCASTING CORPORATION SPECIAL FUND AND MISSOURI HISTORIC PRESERVATION REVOLVING FUND.** — 1. As used in this section, the following terms mean:

- (1) "Nonresident entertainer", a person residing or registered as a corporation outside this state who, for compensation, performs any vocal, instrumental, musical, comedy, dramatic, dance or other performance in this state before a live audience and any other person traveling with and performing services on behalf of a nonresident entertainer, including a nonresident entertainer who is paid compensation for providing entertainment as an independent contractor, a partnership that is paid compensation for entertainment provided by nonresident entertainers, a corporation that is paid compensation for entertainment provided by nonresident entertainers, or any other entity that is paid compensation for entertainment provided by nonresident entertainers;

(2) "Nonresident member of a professional athletic team", a professional athletic team member who resides outside this state, including any active player, any player on the disabled list if such player is in uniform on the day of the game at the site of the game, and any other person traveling with and performing services on behalf of a professional athletic team;

(3) "Personal service income" includes exhibition and regular season salaries and wages, guaranteed payments, strike benefits, deferred payments, severance pay, bonuses, and any other type of compensation paid to the nonresident entertainer or nonresident member of a professional athletic team, but does not include prizes, bonuses or incentive money received from competition in a livestock, equine or rodeo performance, exhibition or show;

(4) "Professional athletic team" includes, but is not limited to, any professional baseball, basketball, football, soccer and hockey team.

2. Any person, venue, or entity who pays compensation to a nonresident entertainer shall deduct and withhold from such compensation as a prepayment of tax an amount equal to two percent of the total compensation if the amount of compensation is in excess of three hundred dollars paid to the nonresident entertainer.

3. Any person, venue, or entity required to deduct and withhold tax pursuant to subsection 2 of this section shall, for each calendar quarter, on or before the last day of the month following the close of such calendar quarter, remit the taxes withheld in such form or return as prescribed by the director of revenue and pay over to the director of revenue or to a depository designated by the director of revenue the taxes so required to be deducted and withheld.

4. Any person, venue, or entity subject to this section shall be considered an employer for purposes of section 143.191, and shall be subject to all penalties, interest, and additions to tax provided in this chapter for failure to comply with this section.

5. Notwithstanding other provisions of this chapter to the contrary, the commissioner of administration, for all taxable years beginning on or after January 1, 1999, but none after December 31, 2015, shall annually estimate the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal year for a period of sixteen years, sixty percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri arts council trust fund, and shall be transferred from the general revenue fund to the Missouri arts council trust fund established in section 185.100 and any amount transferred shall be in addition to such agency's budget base for each fiscal year. The director shall by rule establish the method of determining the portion of personal service income of such persons that is allocable to Missouri.

6. Notwithstanding the provisions of sections 186.050 to 186.067 to the contrary, the commissioner of administration, for all taxable years beginning on or after January 1, 1999, but for none after December 31, 2015, shall estimate annually the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal year for a period of sixteen years, ten percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri humanities council trust fund, and shall be transferred from the general revenue fund to the Missouri humanities council trust fund established in section 186.055 and any amount transferred shall be in addition to such agency's budget base for each fiscal year.

7. Notwithstanding other provisions of section 182.812 to the contrary, the commissioner of administration, for all taxable years beginning on or after January 1, 1999, but for none after December 31, 2015, shall estimate annually the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal year for a period of sixteen years, ten percent of the annual estimate of taxes generated from the

nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri state library networking fund, and shall be transferred from the general revenue fund to the secretary of state for distribution to public libraries for acquisition of library materials as established in section 182.812 and any amount transferred shall be in addition to such agency's budget base for each fiscal year.

8. Notwithstanding other provisions of section 185.200 to the contrary, the commissioner of administration, for all taxable years beginning on or after January 1, 1999, but for none after December 31, 2015, shall estimate annually the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal year for a period of sixteen years, ten percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri public television broadcasting corporation special fund, and shall be transferred from the general revenue fund to the Missouri public television broadcasting corporation special fund, and any amount transferred shall be in addition to such agency's budget base for each fiscal year; provided, however, that twenty-five percent of such allocation shall be used for grants to public radio stations which were qualified by the corporation for public broadcasting as of November 1, 1996. Such grants shall be distributed to each of such public radio stations in this state after receipt of the station's certification of operating and programming expenses for the prior fiscal year. Certification shall consist of the most recent fiscal year financial statement submitted by a station to the corporation for public broadcasting. The grants shall be divided into two categories, an annual basic service grant and an operating grant. The basic service grant shall be equal to thirty-five percent of the total amount and shall be divided equally among the public radio stations receiving grants. The remaining amount shall be distributed as an operating grant to the stations on the basis of the proportion that the total operating expenses of the individual station in the prior fiscal year bears to the aggregate total of operating expenses for the same fiscal year for all Missouri public radio stations which are receiving grants.

9. Notwithstanding other provisions of section 253.402 to the contrary, the commissioner of administration, for all taxable years beginning on or after January 1, 1999, but for none after December 31, 2015, shall estimate annually the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal year for a period of sixteen years, ten percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri department of natural resources Missouri historic preservation revolving fund, and shall be transferred from the general revenue fund to the Missouri department of natural resources Missouri historic preservation revolving fund established in section 253.402 and any amount transferred shall be in addition to such agency's budget base for each fiscal year. As authorized pursuant to subsection 2 of section 30.953, it is the intention and desire of the general assembly that the state treasurer convey, to the Missouri investment trust on January 1, 1999, up to one hundred percent of the balances of the Missouri arts council trust fund established pursuant to section 185.100 and the Missouri humanities council trust fund established pursuant to section 186.055. The funds shall be reconveyed to the state treasurer by the investment trust as follows: the Missouri arts council trust fund, no earlier than January 2, 2009; and the Missouri humanities council trust fund, no earlier than January 2, 2009.

**10. This section shall not be construed to apply to any person who makes a presentation for professional or technical education purposes or to apply to any presentation that is part of a seminar, conference, convention, school, or similar program format designed to provide professional or technical education.**

**162.1195. FINE ARTS, PROFESSIONAL DEVELOPMENT EDUCATION ASSISTANCE. — 1.** Beginning in fiscal year 2013, the office of quality schools within the department of elementary and secondary education may ensure that each regional professional development center in the state provides professional development educational assistance for fine arts.

**2.** The emphasis may include the following:

(1) To act as a resource for school districts under the regional office of professional development with regard to fine arts education, as delivered by certified arts specialists, and the integration of the arts into non-arts curricula;

(2) To work with school districts in staff development and curriculum issues related to fine arts education and fine arts integration;

(3) To collaborate with regional office of professional development personnel and other regional personnel associated with the regional office of professional development;

(4) To coordinate services available from other entities involved in fine arts education and fine arts integration;

(5) To assist and support local school districts in providing fine arts education and the integration of the fine arts; and

(6) To contribute to the development and implementation of in-service training, regionally and statewide, which responds to the needs of arts specialists, and other educators pertaining to the needs of Missouri students in fine arts and the integration of the arts.

**165.011. TUITION — ACCOUNTING OF SCHOOL MONEYS, FUNDS — USES — TRANSFERS TO AND FROM INCIDENTAL FUND, WHEN — EFFECT OF UNLAWFUL TRANSFERS — TRANSFERS TO DEBT SERVICE FUND, WHEN. — 1.** The following funds are created for the accounting of all school moneys: teachers' fund, incidental fund, capital projects fund and debt service fund. The treasurer of the school district shall open an account for each fund specified in this section, and all moneys received from the county school fund and all moneys derived from taxation for teachers' wages shall be placed to the credit of the teachers' fund. All tuition fees, state moneys received under section 163.031, and all other moneys received from the state except as herein provided shall be placed to the credit of the teachers' and incidental funds at the discretion of the district board of education, except as provided in subsection 6 of section 163.031. Money received from other districts for transportation and money derived from taxation for incidental expenses shall be credited to the incidental fund. All money derived from taxation or received from any other source for the erection of buildings or additions thereto and the remodeling or reconstruction of buildings and the furnishing thereof, for the payment of lease-purchase obligations, for the purchase of real estate, or from sale of real estate, schoolhouses or other buildings of any kind, or school furniture, from insurance, from sale of bonds other than refunding bonds shall be placed to the credit of the capital projects fund. All moneys derived from the sale or lease of sites, buildings, facilities, furnishings, and equipment by a school district as authorized under section 177.088 shall be credited to the capital projects fund. Money derived from taxation for the retirement of bonds and the payment of interest thereon shall be credited to the debt service fund, which shall be maintained as a separate bank account. Receipts from delinquent taxes shall be allocated to the several funds on the same basis as receipts from current taxes, except that where the previous years' obligations of the district would be affected by such distribution, the delinquent taxes shall be distributed according to the tax levies made for the years in which the obligations were incurred. All refunds received shall be placed to the credit of the fund from which the original expenditures were made. Money donated to the school districts shall be placed to the credit of the fund where it can be expended to meet the purpose for which it was donated and accepted. Money received from any other source whatsoever shall be placed to the credit of the fund or funds designated by the board.

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2. The school board may transfer any portion of the unrestricted balance remaining in the incidental fund to the teachers' fund. Any district that uses an incidental fund transfer to pay for more than twenty-five percent of the annual certificated compensation obligation of the district and has an incidental fund balance on June thirtieth in any year in excess of fifty percent of the combined incidental teachers' fund expenditures for the fiscal year just ended shall be required to transfer the excess from the incidental fund to the teachers' fund. If a balance remains in the debt service fund, after the total outstanding indebtedness for which the fund was levied is paid, the board may transfer the unexpended balance to the capital projects fund. If a balance remains in the bond proceeds after completion of the project for which the bonds were issued, the balance shall be transferred from the incidental or capital projects fund to the debt service fund. After making all placements of interest otherwise provided by law, a school district may transfer from the capital projects fund to the incidental fund the interest earned from undesignated balances in the capital projects fund. A school district may borrow from one of the following funds: teachers' fund, incidental fund, or capital projects fund, as necessary to meet obligations in another of those funds; provided that the full amount is repaid to the lending fund within the same fiscal year.

3. Tuition shall be paid from either the teachers' or incidental funds. Employee benefits for certificated staff shall be paid from the teachers' fund.

4. Other provisions of law to the contrary notwithstanding, the school board of a school district that meets the provisions of subsection 6 of section 163.031 may transfer from the incidental fund to the capital projects fund the sum of:

(1) The amount to be expended for transportation equipment that is considered an allowable cost under state board of education rules for transportation reimbursements during the current year; plus

(2) Any amount necessary to satisfy obligations of the capital projects fund for state-approved area vocational-technical schools; plus

(3) Current year obligations for lease-purchase obligations entered into prior to January 1, 1997; plus

(4) The amount necessary to repay costs of one or more guaranteed energy savings performance contracts to renovate buildings in the school district, provided that the contract is only for energy conservation measures as defined in section 640.651 and provided that the contract specifies that no payment or total of payments shall be required from the school district until at least an equal total amount of energy and energy-related operating savings and payments from the vendor pursuant to the contract have been realized by the school district; plus

(5) An amount not to exceed the greater of:

(a) One hundred sixty-two thousand three hundred twenty-six dollars; or

(b) Seven percent of the state adequacy target multiplied by the district's weighted average daily attendance, provided that transfer amounts in excess of current year obligations of the capital projects fund authorized under this subdivision may be transferred only by a resolution of the school board approved by a majority of the board members in office when the resolution is voted on and identifying the specific capital projects to be funded directly by the district by the transferred funds and an estimated expenditure date.

5. Beginning in the 2006-07 school year, a district meeting the provisions of subsection 6 of section 163.031 and not making the transfer under subdivision (5) of subsection 4 of this section, nor making payments or expenditures related to obligations made under section 177.088 may transfer from the incidental fund to the debt service fund or the capital projects fund the greater of:

(1) The state aid received in the 2005-06 school year as a result of no more than eighteen cents of the sum of the debt service and capital projects levy used in the foundation formula and placed in the respective debt service or capital projects fund, whichever fund had the designated tax levy; or

(2) Five percent of the state adequacy target multiplied by the district's weighted average daily attendance.

6. Beginning in the 2006-07 school year, the department of elementary and secondary education shall deduct from a school district's state aid calculated pursuant to section 163.031 an amount equal to the amount of any transfer of funds from the incidental fund to the capital projects fund or debt service fund performed during the previous year in violation of this section; except that the state aid shall be deducted over no more than five school years following the school year of an unlawful transfer based on a plan from the district approved by the commissioner of elementary and secondary education.

7. A school district may transfer unrestricted funds from the capital projects fund to the incidental fund in any year [in which that year's June thirtieth combined incidental and teachers' funds unrestricted balance compared to the combined incidental and teachers' funds expenditures would be less than ten percent without such transfer] **to avoid becoming financially stressed as defined in subsection 1 of section 161.520. If on June thirtieth of any fiscal year the sum of unrestricted balances in a school district's incidental fund and teacher's fund is less than twenty percent of the sum of the school district's expenditures from those funds for the fiscal year ending on that June thirtieth, the school district may, during the next succeeding fiscal year, transfer to its incidental fund an amount up to and including the amount of the unrestricted balance in its capital projects fund on that June thirtieth. For purposes of this subsection, in addition to any other restrictions that may apply to funds in the school district's capital projects fund, any funds that are derived from the proceeds of one or more general obligation bond issues shall be considered restricted funds and shall not be transferred to the school district's incidental fund.**

**[163.037. WEIGHTED AVERAGE DAILY ATTENDANCE TO INCLUDE PORTION OF SUMMER SCHOOL AVERAGE DAILY ATTENDANCE, WHEN. —** In any school year after the 2009-10 school year, if there is a twenty-five percent decrease in the statewide percentage of average daily attendance attributable to summer school compared to the percentage of average daily attendance attributable to summer school in the 2005-06 school year, then for the subsequent school year, weighted average daily attendance, as such term is defined in section 163.011, shall include the addition of the product of twenty-five hundredth times the average daily attendance for summer school.]

**SECTION B. EMERGENCY CLAUSE. —** Because of the need to provide adequate funding to school districts, the repeal of section 163.037 and the repeal and reenactment of section 165.011 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal of section 163.037 and the repeal and reenactment of section 165.011 of section A of this act shall be in full force and effect upon its passage and approval.

Approved June 10, 2011

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SB 83 [SB 83]

**EXPLANATION —** Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**Allows for the sale of deficiency waiver addendums and other similar products with respect to certain loan transactions.**

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AN ACT to repeal sections 408.140, 408.233, and 408.300, RSMo, and to enact in lieu thereof four new sections relating to the sale of deficiency waiver addendums and other similar products in certain loan transactions.

SECTION

- A. Enacting clause.
- 408.140. Additional charges or fees prohibited, exceptions — no finance charges if purchases are paid for within certain time limit, exception.
- 408.233. Additional charges authorized.
- 408.300. Time charges, amount authorized on retail time contracts — retail charge agreements, time charges authorized.
- 408.380. Sale of certain financial products and plans associated with certain loan transactions not prohibited.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 408.140, 408.233, and 408.300, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 408.140, 408.233, 408.300, and 408.380, to read as follows:

**408.140. ADDITIONAL CHARGES OR FEES PROHIBITED, EXCEPTIONS — NO FINANCE CHARGES IF PURCHASES ARE PAID FOR WITHIN CERTAIN TIME LIMIT, EXCEPTION.** — 1. No further or other charge or amount whatsoever shall be directly or indirectly charged, contracted for or received for interest, service charges or other fees as an incident to any such extension of credit except as provided and regulated by sections 367.100 to 367.200 and except:

(1) On loans for thirty days or longer which are other than "open-end credit" as such term is defined in the federal Consumer Credit Protection Act and regulations thereunder, a fee, not to exceed five percent of the principal amount loaned not to exceed seventy-five dollars may be charged by the lender; however, no such fee shall be permitted on any extension, refinance, restructure or renewal of any such loan, unless any investigation is made on the application to extend, refinance, restructure or renew the loan;

(2) The lawful fees actually and necessarily paid out by the lender to any public officer for filing, recording, or releasing in any public office any instrument securing the loan, which fees may be collected when the loan is made or at any time thereafter; however, premiums for insurance in lieu of perfecting a security interest required by the lender may be charged if the premium does not exceed the fees which would otherwise be payable;

(3) If the contract so provides, a charge for late payment on each installment or minimum payment in default for a period of not less than fifteen days in an amount not to exceed five percent of each installment due or the minimum payment due or fifteen dollars, whichever is greater, not to exceed fifty dollars. If the contract so provides, a charge for late payment on each twenty-five dollars or less installment in default for a period of not less than fifteen days shall not exceed five dollars;

(4) If the contract so provides, a charge for late payment for a single payment note in default for a period of not less than fifteen days in an amount not to exceed five percent of the payment due; provided that, the late charge for a single payment note shall not exceed fifty dollars;

(5) Charges or premiums for insurance written in connection with any loan against loss of or damage to property or against liability arising out of ownership or use of property as provided in section 367.170; however, notwithstanding any other provision of law, with the consent of the borrower, such insurance may cover property all or part of which is pledged as security for the loan, and charges or premiums for insurance providing life, health, accident, or involuntary unemployment coverage;

(6) Reasonable towing costs and expenses of retaking, holding, preparing for sale, and selling any personal property in accordance with section 400.9;

(7) Charges assessed by any institution for processing a refused instrument plus a handling fee of not more than twenty-five dollars;

(8) If the contract or promissory note, signed by the borrower, provides for attorney fees, and if it is necessary to bring suit, such attorney fees may not exceed fifteen percent of the amount due and payable under such contract or promissory note, together with any court costs assessed. The attorney fees shall only be applicable where the contract or promissory note is referred for collection to an attorney, and is not handled by a salaried employee of the holder of the contract;

(9) Provided the debtor agrees in writing, the lender may collect a fee in advance for allowing the debtor to defer up to three monthly loan payments, so long as the fee is no more than the lesser of fifty dollars or ten percent of the loan payments deferred, no extensions are made until the first loan payment is collected and no more than one deferral in a twelve-month period is agreed to and collected on any one loan; this subdivision applies to nonprecomputed loans only and does not affect any other subdivision;

(10) If the open-end credit contract is tied to a transaction account in a depository institution, such account is in the institution's assets and such contract provides for loans of thirty-one days or longer which are "open-end credit", as such term is defined in the federal Consumer Credit Protection Act and regulations thereunder, the creditor may charge a credit advance fee of the lesser of twenty-five dollars or five percent of the credit advanced from time to time from the line of credit; such credit advance fee may be added to the open-end credit outstanding along with any interest, and shall not be considered the unlawful compounding of interest as that term is defined in section 408.120;

**(11) A deficiency waiver addendum, guaranteed asset protection, or a similar product purchased as part of a loan transaction with collateral and at the borrower's consent, provided the cost of the product is disclosed in the loan contract, is reasonable, and the requirements of section 408.380 are met.**

2. Other provisions of law to the contrary notwithstanding, an open-end credit contract under which a credit card is issued by a company, financial institution, savings and loan or other credit issuing company whose credit card operations are located in Missouri may charge an annual fee, provided that no finance charge shall be assessed on new purchases other than cash advances if such purchases are paid for within twenty-five days of the date of the periodic statement therefor.

3. Notwithstanding any other provision of law to the contrary, in addition to charges allowed pursuant to section 408.100, an open-end credit contract provided by a company, financial institution, savings and loan or other credit issuing company which is regulated pursuant to this chapter may charge an annual fee not to exceed fifty dollars.

**408.233. ADDITIONAL CHARGES AUTHORIZED.** — 1. No charge other than that permitted by section 408.232 shall be directly or indirectly charged, contracted for or received in connection with any second mortgage loan, except as provided in this section:

(1) Fees and charges prescribed by law actually and necessarily paid to public officials for perfecting, releasing, or satisfying a security interest related to the second mortgage loan;

(2) Taxes;

(3) Bona fide closing costs paid to third parties, which shall include:

(a) Fees or premiums for title examination, title insurance, or similar purposes including survey;

(b) Fees for preparation of a deed, settlement statement, or other documents;

(c) Fees for notarizing deeds and other documents;

(d) Appraisal fees; and

(e) Fees for credit reports;

(4) Charges for insurance as described in subsection 2 of this section;

(5) A nonrefundable origination fee not to exceed five percent of the principal which may be used by the lender to reduce the rate on a second mortgage loan;

(6) Any amounts paid to the lender by any person, corporation or entity, other than the borrower, to reduce the rate on a second mortgage loan or to assist the borrower in qualifying for the loan;

(7) For revolving loans, an annual fee not to exceed fifty dollars may be assessed.

2. An additional charge may be made for insurance written in connection with the loan, including insurance protecting the lender against the borrower's default or other credit loss, and:

(1) For insurance against loss of or damage to property where no such coverage already exists; and

(2) For insurance providing life, accident, health or involuntary unemployment coverage.

3. The cost of any insurance shall not exceed the rates filed with the department of insurance, financial institutions and professional registration, and the insurance shall be obtained from an insurance company duly authorized to conduct business in this state. Any person or entity making second mortgage loans, or any of its employees, may be licensed to sell insurance permitted in this section.

4. On any second mortgage loan, a default charge may be contracted for and received for any installment or minimum payment not paid in full within fifteen days of its scheduled due date equal to five percent of the amount or fifteen dollars, whichever is greater, not to exceed fifty dollars. A default charge may be collected only once on an installment or a payment due however long it remains in default. A default charge may be collected at the time it accrues or at any time thereafter and for purposes of subsection 3 of section 408.234 a default charge shall be treated as a payment. No default charge may be collected on an installment or a payment due which is paid in full within fifteen days of its scheduled due date even though an earlier installment or payment or a default charge on earlier installment or payments may not have been paid in full.

5. The lender shall, in addition to the charge authorized by subsection 4 of this section, be allowed to assess the borrower or other maker of refused instrument the actual charge made by any institution for processing the negotiable instrument, plus a handling fee of not more than twenty-five dollars; and, if the contract or promissory note, signed by the borrower, provides for attorney fees, and if it is necessary to bring suit, such attorney fees may not exceed fifteen percent of the amount due and payable under such contract or promissory note, together with any court costs assessed. The attorney fees shall only be applicable where the contract or promissory note is referred for collection to an attorney, and are not handled by a salaried employee of the holder of the contract or note.

**6. No provision of this section shall be construed to prohibit the sale of a deficiency waiver addendum, guaranteed asset protection, or a similar product purchased as part of a loan transaction with collateral and at the borrower's consent, provided the cost of the product is disclosed in the loan contract, is reasonable, and the requirements of section 408.380 are met.**

**408.300. TIME CHARGES, AMOUNT AUTHORIZED ON RETAIL TIME CONTRACTS — RETAIL CHARGE AGREEMENTS, TIME CHARGES AUTHORIZED.** — 1. Notwithstanding the provisions of any other law, the seller or other holder under a retail time contract may charge, receive and collect a time charge, which shall be in lieu of any interest charges, except such as may arise under the terms of sections 408.250 to 408.370 after maturity of the time contract and which charge shall not exceed the amount agreed to by the parties to the retail time contract. The time charge under this subsection shall be computed on the principal balance of each transaction, as determined under subsection 5 of section 408.260, on contracts payable in successive monthly payments substantially equal in amount from the date of the contract to the maturity of the final payment, notwithstanding that the total time balance thereof is required to be paid in one or more deferred payments, or if goods are delivered or services performed more than ten days after that date, with the date of commencement of delivery of goods or performance of services to the maturity of the final payment. When a retail time contract provides for payment other than in

substantially equal successive monthly payments, the time charge shall not exceed the amount which will provide the same return as is permitted on substantially equal monthly payment contracts. Each day may be counted as one-thirtieth of a month. In lieu of any other charge, a minimum time charge of twelve dollars may be charged, received, and collected on each such contract.

2. Notwithstanding the provisions of any other law, the seller and assignee under a retail charge agreement may charge, receive and collect a time charge which shall not exceed the amount agreed to by the parties to the retail charge agreement. The time charge under this subsection shall be computed on an amount not exceeding the greater of either:

(1) The average daily balance of the account in the billing cycle for which the charge is made, which is the sum of the amount unpaid each day during that cycle divided by the number of days in that cycle; amount unpaid on a day is determined by adding to any balance unpaid as of the beginning of that day all purchases and other debits and deducting all payments and other credits made or received as of that day; or

(2) The unpaid balance of the account on the last day of the billing cycle after first deducting all payments, credits and refunds during the billing cycle; or for all unpaid balances within a range of not in excess of ten dollars on the basis of the median amount within such range, if as so computed such time charge is applied to all unpaid balances within such range. A minimum time charge not in excess of seventy cents per month may be charged, received and collected.

3. The time charge shall include all charges incident to investigating and making any retail time transaction. No fee, expense, delinquency charge, collection charge, or other charge whatsoever, shall be charged, received, or collected except as provided in sections 408.250 to 408.370.

**4. No provision of this section shall be construed to prohibit the sale of a deficiency waiver addendum, guaranteed asset protection, or a similar product purchased as part of a loan transaction with collateral and at the borrower's consent, provided the cost of the product is disclosed in the loan contract, is reasonable, and the requirements of section 408.380 are met.**

**408.380. SALE OF CERTAIN FINANCIAL PRODUCTS AND PLANS ASSOCIATED WITH CERTAIN LOAN TRANSACTIONS NOT PROHIBITED. — 1. Notwithstanding any provision of sections 408.140, 408.233, 408.300, or any other law to the contrary, no provision of such sections shall be construed to prohibit the sale of a deficiency waiver addendum, guaranteed asset protection, or a similar product purchased as part of a loan transaction with collateral and at the borrower's consent, provided the cost of the product is reasonable and is disclosed in the loan contract. The borrower's consent to the purchase of the deficiency waiver addendum, guaranteed asset protection, or a similar product shall be in writing and acknowledge receipt of the required disclosures by the borrower. The creditor shall retain a copy for the file.**

**2. Each deficiency waiver addendum, guaranteed asset protection, or other similar product shall provide that in the event of termination of the product prior to the scheduled maturity date of the indebtedness, any refund of an amount paid by the debtor for such product shall be paid or credited promptly to the person entitled thereto; provided, however, that no refund of less than one dollar need be made. The formula to be used in computing the refund shall be the pro rata method.**

**3. Any debtor may cancel a deficiency waiver addendum, guaranteed asset protection, or other similar product within fifteen days of its purchase and shall receive a complete refund or credit of premium. This right shall be set forth in the loan contract, or by separate written disclosure. This right shall be disclosed at the time the debt is**

incurred in ten-point type and in a manner reasonably calculated to inform the debtor of this right.

Approved June 30, 2011

SB 96 [HCS#2 SB 96]

**EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

**Conveys certain state property in St. Francois County and the City of Cape Girardeau.**

AN ACT to authorize the conveyance of various properties owned by the state, with an emergency clause.

SECTION

1. Conveyance of state property in Farmington to St. Francois County.
2. Conveyance of Habitat for Humanity property in Farmington.
3. Conveyance of Southeast Missouri State University property to Cape Area Habitat for Humanity.
4. Conveyance of Algoa Correctional Center property in Jefferson City.
5. Conveyance of Boonville Correctional Center property in Boonville.
6. Conveyance of Western Reception and Diagnostic Correctional Center property in St. Joseph.
7. Conveyance of Central Missouri Correctional Center property in Jefferson City.
8. Conveyance of Farmington Correctional Center property in Farmington.
9. Conveyance of state property in Farmington.
10. Conveyance of Fulton Reception and Diagnostic Correctional Center property in Fulton.
11. Conveyance of Maryville Treatment Center property in Maryville.
12. Conveyance of Eastern Reception Diagnostic Correctional Center property in Bonne Terre.
13. Conveyance of Missouri Eastern Correctional Center property in Pacific.
14. Conveyance of South Central Correctional Center property in Licking.
15. Conveyance of Potosi Correctional Center property in Potosi.
16. Conveyance of Chillicothe Correctional Center property in Chillicothe.
17. Conveyance of Tipton Correctional Center property in Tipton.
18. Conveyance of Women's Eastern Reception and Diagnostic Correctional Center property in Vandalia.
19. Conveyance of Moberly Correctional Center property in Moberly.
20. Conveyance of St. Francois County Correctional Facility property in Farmington to St. Francois County.
21. Conveyance of a permanent sidewalk easement for Adrians Island property in Cole County to Jefferson City.
22. Conveyance of a permanent levee easement on Church Farm property in Cole County to Cole Junction Levee District.
23. Conveyance of a permanent pipeline easement on Moberly Correctional Center property in Moberly to Panhandle Eastern Pipeline Company.
24. Conveyance of South East Missouri Mental Health Center property in Farmington to Missouri Highways and Transportation Commission.
25. Reauthorization of conveyance of South East Missouri Mental Health Center property in Farmington.
26. Conveyance of National Guard property in Centertown.
27. Conveyance of a permanent drainage easement on State School for the Severely Disabled property in Joplin.
- B. Emergency clause.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION 1. CONVEYANCE OF STATE PROPERTY IN FARMINGTON TO ST. FRANCOIS COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property located in Farmington, St. Francois County, Missouri, to St. Francois County. The property to be conveyed is more particularly described as follows:**

**Tract 1**

**A tract of land situated in the city of Farmington, county of St. Francois and the state of Missouri, lying in part of Lot 94 of United States Survey 2969, Township**

35 North, Range 5 East of the Fifth Principal Meridian, described as follows, to-wit: Commencing at a found iron rod marking the Northwest corner of Lot 6A of Farmington Industrial Park - Plat 4, a subdivision filed for record in Plat Book 16 at Page 624; thence South 82°43'21" East 274.11' on the North line of said Lot 6A to a set No.4 rebar at the intersection of said North line with the extension of the West right-of-way line of Pullan Road, the POINT OF BEGINNING of the tract herein described; thence leaving said North line, North 07°16'39" East 1551.20' on said extension of said West right-of-way line to a found iron rod at the intersection of said West right-of-way line with the South right-of-way line of Doubet Road, marking the Northeast corner of Doubet Subdivision, a subdivision recorded as Document 2008R-07328; thence leaving said West right-of-way line, South 82°13'40" East 50.00' on said South right-of-way line to a set No.5 rebar; thence leaving said South right-of-way line, South 07°16'39" West 1550.78' on a line parallel with and fifty feet (50') East of said West right-of-way line of Pullan Road and it's extension to a set No.5 rebar on said North line of Lot 6A of Farmington Industrial Park - Plat 4; thence North 82°43'21" West 50.00' on said North line to the point of beginning. Containing 1.78 acres, more or less.

Tract 2

A tract of land situated in the city of Farmington, county of St. Francois and the state of Missouri, lying in part of Lot 94 of United States Survey 2969, Township 35 North, Range 5 East of the Fifth Principal Meridian, described as follows, to wit: Commencing at a found iron rod marking the Northwest corner of Lot 6A of Farmington Industrial Park - Plat 4, a subdivision filed for record in Plat Book 16 at Page 624; thence South 82°43'21" East 324.11' on the North line of Farmington Industrial Park - Plat 4 to a set No.5 rebar at the Southwest corner of a cemetery; thence leaving said North line, North 07°16'39" East 515.48' to a set No.4 rebar, the POINT OF BEGINNING of the tract herein described; thence continue North 07°16'39" East 807.46' to a set No.4 rebar; thence South 82°43'21" East 466.88' to a set No.4 rebar on the West line of a tract of land described in a lease recorded in Book 1265 at Page 285-302; thence South 08°30'07" West 806.79' on the West line of said Book 1265 at Page 285-302 and on the West line of a tract of land described in Book 1619 at Page 197 to a set No.4 rebar on said West line of Book 1619 at Page 197; thence leaving said West line, North 82°49'53" West 449.64' to the point of beginning. Containing 8.49 acres, more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 2. CONVEYANCE OF HABITAT FOR HUMANITY PROPERTY IN FARMINGTON.

— 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property located in Farmington, St. Francois County, Missouri, to Habitat for Humanity of St. Francois County, Inc. The property to be conveyed is more particularly described as follows:

Tract 1

A tract of land situated in the city of Farmington, county of St. Francois and the state of Missouri, lying in part of Lot 94 of United States Survey 2969, Township 35 North, Range 5 East of the Fifth Principal Meridian, described as follows, to-



wit: Commencing at a found iron rod marking the Northwest corner of Lot 6A of Farmington Industrial Park - Plat 4, a subdivision filed for record in Plat Book 16 at Page 624; thence North 82°43'21" West 23.12' on the North line of said Farmington Industrial Park - Plat 4 to a set No.4 rebar marking the Southeast corner of a tract of land described in Book 1164 at Page 627, the POINT OF BEGINNING of the tract herein described; thence leaving said North line, North 07°10'39" East 512.52' on the East line of said Book 1164 at page 627 to a set No.4 rebar; thence leaving said East line South 82°49'53" East 298.12' to a set No.4 rebar; thence South 07°16'39" West 515.38' to a set No.4 rebar on said North line of Farmington Industrial Park - Plat 4; thence North 82°16'52" West 297.23' on said North line to the point of beginning. Containing 3.51 acres, more or less.

#### Tract 2

A tract of land situated in the city of Farmington, county of St. Francois and the state of Missouri, lying in part of Lot 94 of United States Survey 2969, Township 35 North, Range 5 East of the Fifth Principal Meridian, described as follows, to-wit: Commencing at a found iron rod marking the Northwest corner of Lot 6A of Farmington Industrial Park - Plat 4, a subdivision filed for record in Plat Book 16 at Page 624; thence South 82°43'21" East 324.11' on the North line of Farmington Industrial Park - Plat 4 to a set No.5 rebar at the Southwest corner of a cemetery; thence leaving said North line, North 07°16' 39" East 173.34' to a set No.4 rebar marking the Northwest corner of said cemetery, the POINT OF BEGINNING of the tract herein described; thence continue North 07°16'39" East 342.14' to a set No.4 rebar; thence South 82°49'53" East 449.64' to a set No.4 rebar on the West line of a tract of land described in Book 1309 at Page 109; thence South 08°30'07" West 342.95' on said West line to a set No.4 rebar marking the Northeast corner of said cemetery; thence leaving said West line, North 82°44'16" West 442.30' on the North line of said cemetery to the point of beginning. Containing 3.51 acres, more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 3. CONVEYANCE OF SOUTHEAST MISSOURI STATE UNIVERSITY PROPERTY TO CAPE AREA HABITAT FOR HUMANITY.** — 1. The board of regents of Southeast Missouri State University is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by Southeast Missouri State University in the City of Cape Girardeau to the Cape Area Habitat for Humanity. The property to be conveyed is located at 319 S. Ellis in the City of Cape Girardeau and is more particularly described as follows:

All of the North 50 feet of lot 70 in range H in the City of Cape Girardeau.

2. The parties shall negotiate and set the terms and conditions for the conveyance. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

**SECTION 4. CONVEYANCE OF ALGOA CORRECTIONAL CENTER PROPERTY IN JEFFERSON CITY.** — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of

Missouri in property located at the Alcoa Correctional Center in Jefferson City, Cole County, Missouri, described as follows:

TRACT A

Part of U.S. PRIVATE SURVEY NO. 2611, Township 44 North, Range 10 West, Cole County, Missouri, more particularly described as follows:

From the northwest corner of the Northeast Fractional Quarter of Section 20, Township 44 North, Range 10 West; thence S86°50'10"E, along the Section Line, 1045.00 feet to the southeast corner of Lot No. 5 of the Plat of Ewing Farm, a subdivision of record in Plat Book 1, page 69, Cole County Recorder's Office and said corner being the POINT OF BEGINNING for this description; thence N0°16'00"E, along the east line of said Lot No. 5, 1758.90 feet to a point on the south bank of the Missouri River, said point being the northwest corner of U.S. Private Survey No. 2611; thence Easterly, along the north line of said U.S. Private Survey No. 2611, and the south bank of the Missouri River, the following courses: N73°08'46"E, 503.97 feet; thence N83°20'48"E, 1039.99 feet to the northwest corner of the original Section 16, Township 44 North, Range 10 West; thence leaving the north line of said U.S. Private Survey No. 2611 and the south bank of the Missouri River, S1°02'02"W, along the original line between Sections 16 and 17, 683.12 feet to the northwest corner of the Southwest Quarter of the Southwest Quarter of said original Section 16 and said corner being the southwesterly corner of a tract described by deed of record in Book 277, page 458, Cole County Recorder's Office; thence Easterly along the southerly boundary of said tract described in Book 277, page 458, the following courses: S88°39'30"E, along the Quarter, Quarter Section Line, 108.50 feet; thence S51°39'48"E, 419.63 feet; thence S79°38'25"E, 186.02 feet to the most northerly corner of a tract described by deed of record in Book 409, page 749, Cole County Recorder's Office; thence leaving the southerly boundary of said tract described in Book 277, page 458, S18°17'34"W, along the westerly line of said tract described in Book 409, page 749, 136.06 feet to the southwesterly corner thereof; thence S84°00'29"E, along the southerly line of said tract described in Book 409, page 749, 144.32 feet to the most easterly corner thereof and said corner being the southeasterly corner of a tract described by deed of record in Book 406, page 897, Cole County Recorder's Office; thence N22°35'50"E, along the easterly line of said tract described in Book 406, page 897, 126.65 feet to the northeasterly corner thereof and said corner being a point on the southerly boundary of the aforesaid tract described by deed of record in Book 277, page 458; thence S79°38'25"E, along the southerly boundary of said tract described in Book 277, page 458, 40.46 feet; thence S74°16'57"E, along the southerly boundary of said tract described in Book 277, page 458, 268.96 feet to a point on the west line of a 50 foot wide street right-of-way known as Elm Street, as per plat of Ewings Addition to the Town of Osage City; thence S2°41'10"W, along the west line of said Elm Street right-of-way, 984.82 feet to a point on the north line of the original Section 21, Township 44 North, Range 10 West; thence N88°38'32"W, along the original Section Line, 17.96 feet to a point on the west line of the 60 foot wide street right-of-way known as Elm Street, as per plat of McCurnan's Addition to the Town of Osage City; thence S6°42'18"W, along the west line of said Elm Street right-of-way, 433.32 feet to a point on the northerly line of the 100 foot wide right-of-way of the Missouri Pacific Railroad; thence along the northerly line of said Missouri Pacific Railroad right-of-way, the following courses: N81°16'17"W, 418.36 feet; thence N82°10'01"W, 181.31 feet; thence

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Westerly, on a curve to the left, having a radius of 1970.53 feet, an arc distance of 1645.67 feet, (the chord of said curve being S72°08'01"W, 1598.26 feet); thence S46°43'48"W, 151.10 feet; thence S45°59'01"W, 342.92 feet to a point on the west line of the aforesaid U.S. Private Survey No. 2611, being the east line of the Northeast Fractional Quarter of Section 20, Township 44 North, Range 10 West; thence leaving the northerly line of said Missouri Pacific Railroad right-of-way, N0°16'00"E, along the west line of said U.S. Private Survey No. 2611, 1218.93 feet to the POINT OF BEGINNING.

Containing 125.44 Acres.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 5. CONVEYANCE OF BOONVILLE CORRECTIONAL CENTER PROPERTY IN BOONVILLE.** — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the Boonville Correctional Center in Boonville, Cooper County, Missouri, described as follows:

Tract A (properties lying north of Boonville & Rocheport Public Rd.): Unplatted and vacant land in the east half of the northeast quarter of Section 36, T49N, R17W, Cooper County, Missouri, being owned by the State of Missouri per Deed recorded in Book 23, Page 448, lying both east of and abutting and north of and abutting both the east and north lines of an 83.18 acre tract described by a Quit-Claim Deed recorded in Book 162, Page 208 and shown by Surveyor's Record Book 5, Page 219 of the Cooper County records. The west part of said 83.18 acre tract is further subdivided as Boonville Industrial Park by Plat Book 5, Page 271. Said unplatted and vacant land being more particularly described as follows:

Beginning at the northwest corner of Lot 1, Boonville Industrial Park, shown by said subdivision plat and by said survey recorded in Surveyor's Record Book 5, Page 219 as being S5°-00'-00"E 82.03 feet and S82°-32'-47"W, along the north line of said section, 1954.21 feet from the northeast corner of said Section 36; thence, following the lines of said subdivision plat: N85°-00'-00"E 158.46 feet; S0°-40'-17"E 51.00 feet; S88°-08'-52"E 262.75 feet; N78°-30'-00"E 434.94 feet; N2°-23'-30"W 33.00 feet; N80°-19'-48"E 597.42 feet; S11°-09'-53"E 200.74 feet; S7°-55'-12"E 98.98 feet; S69°-32'-29"W 215.33 feet; S45°-25'-18"W 60.86 feet; S24°-51'-03"W 66.36 feet; S2°-44'-59"E 39.63 feet; S24°-03'-26"E 36.71 feet; S40°-40'-59"E 71.49 feet; S42°-13'-19"E 115.91 feet; S38°-36'-17"E 87.13 feet; S38°-24'-35"E 60.03 feet; S22°-01'-08"E 44.24 feet; and S2°-03'-35"W 30.00 feet to the southeast corner of Lot 4 of said subdivision plat; thence, leaving the lines of said subdivision plat and continuing along the lines of said survey, S2°-03'-35"E 20.23 feet; S6°-57'-21"E 50.93 feet; S14°-32'-44"E 74.40 feet; S25°-35'-35"E 170.00 feet; S4°-39'-14"E 28.04 feet; and N87°-04'-23"E 389.8 feet, more or less, to the east line of said Section 36; thence, leaving the lines of said survey, Northerly, along last said Section Line, 1276 feet, more or less, to the northeast corner of said Section; thence S84°-32'-47"W, along the north line of said Section, 1594.8 feet, more or less, to the east line of Tract 2 of the two tracts described by a Deed recorded in Book 350, Page 605; thence, following the lines of said Tract 2: S1°-38'-25"W 79 feet, more or less, to the southeast corner

thereof; N85°-40'-40''W 201.21 feet; S1°-38'-40''W 10.25 feet; and S88°-10'-00''W 153 feet, more or less, to a line perpendicular to first said north line of said Lot 1; thence S5°-00'-00''E 25.33 feet to the point of beginning and containing 18.7 acres, more or less.

This tract is subject to easements and restrictions of record, including any dedicated right-of-way of Morgan Street as implied on said subdivision plat and indicated by an unrecorded survey of Tract 2 of the two tracts described by Deed recorded in Book 350, Page 605.

ALSO, unplatted and vacant land being that part of the northwest quarter of Section 31, T49N, R16W, Cooper County, Missouri, being owned by the State of Missouri per Deed recorded in Book 23, Page 448, lying south of the Missouri River, and lying both east of and abutting and north of and abutting both the easternmost and north lines of an 83.18 acre tract described by a Quit-Claim Deed recorded in Book 162, Page 208 and shown by a survey recorded in Surveyor's Record Book 5, Page 219, and lying north of the Boonville and Rocheport Public Road. EXCEPTING THEREFROM the Missouri Pacific Railroad right-of-way. Said unplatted and vacant land containing 92 acres, more or less, and including the west part of a 43.7702 acre tract shown by Surveyor's Record Book 7, Page 237, and a 24.552 acre tract shown by Surveyor's Record Book 7, Page 30.

ALSO, unplatted and vacant land being the northeast quarter of Section 31, T49N, R16W, Cooper County, Missouri, being owned by the State of Missouri per Deed recorded in Book 23, Page 448, lying south of the Missouri Pacific Railroad right-of-way and west of Cole's Branch, and lying north of the Boonville and Rocheport Public Road, and containing 63 acres, more or less, including the east part of a 43.7702 acre tract shown by Surveyor's Record Book 7, Page 237. Said Branch (aka Fort Field Branch) being the west line of an adjoining 43.45 acre tract described by a Warranty Deed recorded in Book 137, Page 23, and the northern part of said Cole's Branch being shown by a 20 foot offset line to the west from said Branch by Surveyor's Record Book 7, Page 237.

The three tracts of land comprising Tract A as previously described, all lying north of the Boonville and Rocheport Public Road in Sections 36-49-17 and 31-49-16, contain a total of 174 acres, more or less.

Tract B (properties lying south of Boonville & Rocheport Public Rd.): Unplatted and vacant land being the west part of the southwest quarter, and the west part of the northwest quarter lying south the Boonville and Rocheport Public Road, all in Section 31, T49N, R16W, Cooper County, Missouri, being owned by the State of Missouri per Deed recorded in Book 23, Page 448, and all lying west of and abutting the west line of a 188.75 acre tract described by a Deed of Personal Representative recorded in Book 159, Page 485. Said unplatted and vacant land containing 129 acres, more or less.

ALSO, unplatted and vacant land in the north half of the northeast quarter of Section 1, T48N, R17W, Cooper County, Missouri, being the south part of that tract described by a Quit-Claim Deed recorded in Book 162, Page 208 and Page 412, being shown as the south part of a 90.69 acre survey in Surveyor's Record Book 5, Page 222, lying both north of and abutting Tract 1, and east of and abutting Tract 2 of a two-tract survey shown by Surveyor's Record Book 5, Page 257, both of the Cooper County records. Said unplatted and vacant land containing 28 acres, more or less.

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This tract is subject to easements and restrictions of record, including a north-south sanitary sewer with no known easement.

ALSO, unplatted and vacant land located in the southeast part of the southeast quarter of Section 36, T49N, R17W, Cooper County, Missouri, being the north part of the 90.69 acre tract described by a Quit-Claim Deed recorded in Book 162, Page 208 and Page 412; and lying east of and abutting the east boundary of Trout Dale Subdivision; and lying east of and abutting the east boundary of a tract described by a General Warranty Deed recorded in Book 399, Pages 179 to 181 and shown by an unrecorded plat of Warnhoff Subdivision by LS 1957, dated April, 2004; and lying east of and abutting a 0.25 acre tract described by a Warranty Deed recorded in Book 440, Page 31; and lying east of and abutting the east boundary of Boonville Memorial Gardens Cemetery as shown by Surveyor's Record Book 5, Page 242; Said unplatted and vacant land containing 61 acres, more or less.

This tract is subject to a stormwater drainage easement to the City of Boonville, 30 feet wide by 100 feet in length at the west side of the above described tract and recorded in Book 585, Page 442.

ALSO, unplatted and vacant land located in the north half of the southeast quarter, and in the south half of the northeast quarter of Section 36, T49N, R17W lying south of the Boonville and Rocheport Public Road, Cooper County, Missouri, being owned by the State of Missouri per Deed recorded in Book 23, Page 448, lying north of and abutting the 90.69 acre tract described by a Quit-Claim Deed recorded in Book 162, Page 208 and Page 412 and shown in Surveyor's Record Book 5, Page 222; and lying north of and abutting the north line of that tract described by a General Warranty Deed recorded in Book 242, Page 397; and lying east of and abutting the east line of that tract described by a Special Warranty Deed recorded in Book 150, Page 358, EXCEPTING THEREFROM, an 8.265 acre tract of land lying south of the Boonville and Rocheport Public Road and shown by an unrecorded survey by Corporate LS 27D displayed as an unrecorded "As Built" document of the National Guard Armory by Architect A-3088, dated December 3, 1990, and described as follows: Beginning at the northeast corner of said 8.265 acre tract, being S30°-55'-25"W on a direct line, 2533.11 feet from the northeast corner of said Section 36; thence S4°-00'-10"E 604.05 feet; thence N83°-02'-10"W 599.07 feet to a line 50 feet east of and parallel with the southerly extension of Al Bersted Drive; thence N4°-00'-10"W 607.74 feet to the south right-of-way line of said Public Road; thence, following said south right-of-way line: S87°-31'-16"E 40.29 feet; S85°-01'-22"E 203.27 feet; and S80°-48'-54"E 356.73 feet to the point of beginning, said point of beginning being Westerly along the north line of said Section, 1450.73 feet, and S4°-00'-10"E, 2040.20 feet from said northeast section corner. EXCEPTING THEREFROM, a 6.0 acre tract of land in the southwest quarter of the northeast quarter, and in the northeast quarter of the southeast quarter of the northwest quarter of Section 36, T49N, R17W, Cooper County, Missouri, lying south of the Boonville and Rocheport Public Road, described as follows: Beginning on the south right-of-way line of the Boonville and Rocheport Public Road at a line 50 feet west of and parallel with the southerly extension of the centerline of Al Bersted Drive, being N87°-31'-16"W along said south right-of-way line, 100.64 feet from the northwest corner of an 8.265 acre tract of land lying south of the Boonville and Rocheport Public Road and shown by an unrecorded survey by Corporate LS 27D displayed as an unrecorded "As Built" document of the National Guard Armory by Architect A-3088, dated December 3, 1990, and

being S43°-40'-00''W on a direct line, 2892.51 feet from the northeast corner of said Section 36; thence S4°-00'-10''E 400.00 feet; thence S85°-59'-50''W 549 feet, more or less, to the east line of a 14 acre tract being owned by the City of Boonville, Missouri per Special Warranty Deed recorded in Book 150, Page 358; thence, following the eastern lines of said tract: Northerly 249.6 feet, more or less; Westerly 145 feet; and Northerly 175 feet to the south right-of-way line of Locust Street having a total right-of-way of 80 feet; thence, leaving said eastern lines, Easterly, along said right-of-way line, 694 feet, more or less, to the point of beginning and containing 6.0 acres. Said point of beginning being Westerly along the north line of said Section, 2138.52 feet, and S4°-00'-10''E 1893.78 feet from said northeast section corner. Last said unplatted and vacant land containing 88 acres, more or less, not including any implied right-of-way of the Boonville and Rocheport Public Road as indicated by an 83.18 acre tract described by a Quit-Claim Deed recorded in Book 162, Page 208 and shown by Surveyor's Record Book 5, Page 219, by the west part of said 83.18 acre tract further subdivided as Boonville Industrial Park by Plat Book 5, Page 271, and by an unrecorded survey by Corporate LS 27D displayed as an unrecorded "As Built" document of the National Guard Armory by Architect A-3088, dated December 3, 1990.

This tract is subject to easements and restrictions of record, including a north-south sanitary sewer with no known easement.

The four tracts of land comprising Tract B as previously described, all lying south of the Boonville and Rocheport Public Road in Section 31-49-16, in Section 36-49-17, and in Section 1-48-17, contain a total of 306 acres, more or less.

Tract C (Warden's house and dairy operation property): A tract of land in the southwest quarter of the northeast quarter, and in the northeast quarter of the southeast quarter of the northwest quarter of Section 36, T49N, R17W, Cooper County, Missouri, being owned by the State of Missouri per Deed recorded in Book 23, Page 448, lying south of Locust Street, also known as the Boonville and Rocheport Public Road and described as follows: Beginning on the south right-of-way line of the Boonville and Rocheport Public Road at a line 50 feet west of and parallel with the southerly extension of the centerline of Al Bersted Drive, being N87°-31'-16''W along said south right-of-way line, 100.64 feet from the northwest corner of an 8.265 acre tract of land lying south of the Boonville and Rocheport Public Road and shown by an unrecorded survey by Corporate LS 27D displayed as an unrecorded "As Built" document of the National Guard Armory by Architect A-3088, dated December 3, 1990, and being S43°-40'-00''W on a direct line, 2892.51 feet from the northeast corner of said Section 36; thence S4°-00'-10''E 400.00 feet; thence S85°-59'-50''W 549 feet, more or less, to the east line of a 14 acre tract being owned by the City of Boonville, Missouri per Special Warranty Deed recorded in Book 150, Page 358; thence, following the eastern lines of said tract: Northerly 249.6 feet, more or less; Westerly 145 feet; and Northerly 175 feet to the south right-of-way line of Locust Street having a total right-of-way of 80 feet as indicated by a General Warranty Deed recorded in Book 158, Page 753 and stated by House Bill No. 1187 dated September 29, 1980; thence, leaving said eastern lines, Easterly, along said right-of-way line, 694 feet, more or less, to the point of beginning and containing 6.0 acres.

This tract is subject to easements and restrictions of record.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 6. CONVEYANCE OF WESTERN RECEPTION AND DIAGNOSTIC CORRECTIONAL CENTER PROPERTY IN ST. JOSEPH. — 1.** The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the Western Reception and Diagnostic Correctional Center in St. Joseph, Buchanan County, Missouri, described as follows:

**Tract A**

A Tract of land being part of the Northeast Quarter of Section 10 Township 57 North, Range 35 East, Buchanan County, Missouri, and being more particularly described as follows:

Commencing at the East Quarter corner of said Section 10 Township 57 North, Range 35 East; thence North 00°12'14" West along the East line of the Northeast Quarter of said Section 10 Township 57 North, Range 35 East a distance of 100 feet; thence South 89°50'54" East departing the East line of the Northeast Quarter of said Section 10 Township 57 North, Range 35 East a distance of 85.00 feet to the Point of Beginning said point being the intersection of the West right of way of 36th Street and the North right of way of Faraon Avenue as now established; thence North 89°50'54" West along the North right of way of Faraon Avenue a distance of 1,238.01 feet; thence North 00°12'14" West a distance of 540.82 feet; thence South 89°47'46" West departing the East back of curb of said South Drive a distance of 1,237.99 feet to a point on the West right of way of 36th Street; thence South 00°12'14" East along the West right of way of 36th Street a distance of 548.50 feet to the Point of Beginning. Containing 674,277.17 square feet or 15.48 acres more or less.

**Tract B**

A Tract of land being part of the Northeast Quarter of Section 10 Township 57 North, Range 35 East, Buchanan County, Missouri, and being more particularly described as follows:

Commencing at the Northeast Quarter of said Section 10 Township 57 North, Range 35 East; thence South 89°55'14" West along the North line of the Northeast Quarter of said Section 10 Township 57 North, Range 35 East a distance of 2,214.69 feet; thence South 00°04'46" East departing the North line of the Northeast Quarter of said Section 10 Township 57 North, Range 35 East a distance of 30.00 feet to the intersection with the South right of way of Frederick Avenue as now established and the Northerly projection of the West edge of a concrete walk said point also being the Point of Beginning; thence South 00°42'14" East departing said the South right of way of said Frederick Avenue and along said Northerly projection of the West edge of a concrete walk a distance of 226.87 feet; thence South 88°00'04" West departing the West edge of said concrete walk a distance of 242.88 feet to the point of intersection with the East back of curb of Rush Road; thence along the East back of curb of said Rush Road the following courses and distances: North 02°18'47" West a distance of 221.77 feet to a point of curvature; thence Easterly along a curve to the left, having a radius of 12.89 feet, a central angle of 92°14'41", and a distance of 20.75 feet to a point of tangency with the South right of way of said Frederick Avenue; thence North 89°55'14" East along the south right of way of said Frederick Avenue a distance of 236.04 feet to the Point of Beginning. Containing 56,814.67 square feet or 1.30 acres more or less.

**Tract C**

A Tract of land being part of the Northeast Quarter of Section 10 Township 57 North, Range 35 East, Buchanan County, Missouri, and being more particularly described as follows:

Commencing at the Northeast Quarter of said Section 10 Township 57 North, Range 35 East; thence South 89°55'14" West along the North line of the Northeast Quarter of said Section 10 Township 57 North, Range 35 East a distance of 2,214.69 feet; thence South 00°04'46" East departing the North line of the Northeast Quarter of said Section 10 Township 57 North, Range 35 East a distance of 30.00 feet to the intersection with the South right of way of Frederick Avenue as now established and the Northerly projection of the West edge of a concrete walk; thence South 00°42'14" East departing said the South right of way of said Frederick Avenue and along said Northerly projection of the West edge of a concrete walk a distance of 226.87 feet to the Point of Beginning; thence continuing South 00°42'14" East along said West edge of a concrete walk a distance of 226.87 feet to the intersection with an existing wood plank fence; thence along said existing wood plank fence the following courses and distances: South 88°01'45" West a distance of 17.41 feet; thence South 00°20'43" East a distance of 120.24 feet; thence South 39°46'21" West a distance of 55.86 feet; thence North 89°54'15" West departing said existing wood plank fence a distance of 182.73 feet to the point of intersection with the East back of curb of Rush Road; thence North 02°18'47" West along the East back of curb of said Rush Road a distance of 202.60 feet; thence North 88°00'04" East departing the East back of curb of said Rush Road a distance of 242.88 feet to the Point of Beginning. Containing 45,953.77 square feet or 1.06 acres more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 7. CONVEYANCE OF CENTRAL MISSOURI CORRECTIONAL CENTER PROPERTY IN JEFFERSON CITY.** — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the Central Missouri Correctional Center in Jefferson City, Cole County, Missouri, described as follows:

**TRACT 3-B**

Part of the Southeast Quarter of Section 13, Township 45 North, Range 13 West, Cole County, Missouri, more particularly described as follows:

From the Center of said Section 13; thence S88°18'32"E, along the Quarter Section Line, 277.59 feet to a point on the southerly line of the 100 foot wide Missouri Pacific Railroad right-of-way; thence S49°23'55"E, along the southerly line of said Railroad Right-of-way, 191.44 feet to the center of an existing field road, being a corner on the eastern boundary of the property described by deed of record in Book 495, page 449, Cole County Recorder's Office and the POINT OF BEGINNING for this description; thence continuing along said Railroad Right-of-way line the following courses: S49°23'55"E, 197.17 feet; thence southeasterly, on a spiral curve to the left, a spiral distance of 152.0 feet, (the chord of said spiral being S50°09'13"E, 151.96 feet); thence Southeasterly, on a simple curve to the left, having a radius of 1959.86 feet, an arc distance of 873.11 feet, (the chord of said curve being S64°24'40"E, 865.91 feet); thence Southeasterly, on a spiral curve to the left, a spiral distance of 152.0 feet, (the



chord of said spiral being S78°40'07"E, 151.96 feet); thence S79°25'25"E, 122.49 feet; thence leaving the aforesaid Railroad Right-of-way line, S21°45'37"W 1041.68 feet to a point on the northerly line of the Missouri State Highway 179 Right-of-way; thence along the northerly line of said Missouri State Highway 179 Right-of-way, the following courses: N63°57'55"W, 75.04 feet; thence Westerly, on a curve to the left, having a radius of 995.40 feet, an arc distance of 465.55 feet, (the chord of said curve being, N67°35'35"W, 461.31 feet) to a point in the center of an existing field road, being the southeasterly corner of the aforesaid property described in Book 495, page 449; thence leaving the Missouri State Highway 179 Right-of-way line, along the center of said field road and the easterly boundary of said property described in Book 495, page 449, the following courses; N13°21'56"E, 534.20 feet; thence northwesterly, on a curve to the left, having a radius of 130.00 feet, an arc distance of 143.08 feet, (the chord of said curve being N18°09'54"W, 135.97 feet); thence N49°41'43"W, 399.15 feet; thence N47°46'57"W, 326.12 feet; thence northwesterly, on a curve to the right, having a radius of 125.00 feet, an arc distance of 142.57 feet, (the chord of said curve being N15°06'27"W, 134.97 feet); thence N17°34'03"E, 80.68 feet; thence northeasterly, on a curve to the right, having a radius of 270.00 feet, an arc distance of 86.87 feet, (the chord of said curve being N26°47'07"E, 86.50 feet to the POINT OF BEGINNING. Containing 18.65 acres.

#### TRACT 3-D

Part of the Southeast Quarter of the Southeast Quarter of Section 13, Township 45 North, Range 13 West and part of the Southwest Quarter of Section 18 and part of the Northwest Quarter of Section 19, Township 45 North, Range 12 West, Cole County, Missouri, more particularly described as follows:

From the southeast corner of said Section 13; thence N1°29'15"E, along the Range Line, 60.50 feet to a point on the northerly line of the Missouri State Highway 179 Right-of-way and said point being S1°29'15"W along said Range Line, 401.95 feet from the northwest corner of Section 19, Township 45 North, Range 12 West and being the POINT OF BEGINNING for this description; thence N54°11'40"W, along said Highway 179 Right-of-way line, 654.19 feet; thence N45°56'50"E, 1716.89 feet to a point on the southerly line of the 100 foot wide Missouri Pacific Railroad Right-of-way; thence along said Railroad Right-of-way line the following courses: Southeasterly, on a simple curve to the right, having a radius of 2814.79 feet, an arc distance of 295.34 feet, (the chord of said curve being S72°05'46"E, 295.20 feet); thence Southeasterly, on a spiral curve to the right, a spiral distance of 99.14 feet, (the chord of said spiral being S68°25'20"E, 99.13 feet); thence S68°05'25"E, 790.69 feet; thence leaving the aforesaid Railroad Right-of-way line, S35°48'20"W, 1995.06 feet to a point on the northerly line of the aforesaid Missouri State Highway 179 Right-of-way; thence N54°11'40"W, along said Highway 179 Right-of-way line, 792.66 feet to the POINT OF BEGINNING. Containing 54.51 acres.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.
3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 8. CONVEYANCE OF FARMINGTON CORRECTIONAL CENTER PROPERTY IN FARMINGTON. — 1.** The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in

property located at the Farmington Correctional Center in Farmington, St. Francois County, Missouri, described as follows:

**INGRESS AND EGRESS EASEMENT**

A strip of land 30 feet wide across part of Lot 70 and 71 of United States Survey Number 2969, Township 35 North, Range 5 East, in the City of Farmington, St. Francois County, Missouri, said 30 foot strip lying 15.00 feet each side of and adjacent to the following described centerline:

From a stone marking the northwest corner of said Lot 70, also being the southwest corner of Crosswinds Plat 2 as per plat of record in Plat Book 15, page 163, St. Francois County Recorder's Office; thence S06°20'17"W, 216.36 feet; thence S57°50'37"E, 82.27 feet to the POINT OF BEGINNING for this centerline description; thence northeasterly, on a curve to the right having a radius of 246.00 feet, an arc length of 187.61 feet, (the chord of said curve being N61°05'42"E, 183.10 feet); thence N82°56'37"E, 29.02 feet; thence easterly, on a curve to the right having a radius of 350.00 feet, an arc length of 87.32 feet, (the chord of said curve being S89°54'34"E, 87.09 feet); thence S82°45'45"E, 257.95 feet; thence easterly, on a curve to the right having a radius of 400.00 feet, an arc length of 91.45 feet, (the chord of said curve being S76°12'46"E, 91.25 feet); thence S69°39'46"E, 36.75 feet; thence southeasterly, on a curve to the right having a radius of 250.00 feet, an arc length of 177.87 feet, (the chord of said curve being S49°16'50"E, 174.14 feet); thence S28°53'54"E, 29.12 feet; thence southerly, on a curve to the right having a radius of 150.00 feet, an arc length of 85.38 feet, (the chord of said curve being S12°35'32"E, 84.23 feet); thence S03°42'50"W, 143.95 feet; thence S82°45'45"E, 51.95 feet to the point of termination.

Except all that part of Lot 2 of Habitat for Humanity Subdivision, as per plat of record in Plat Book 16, page 473, St. Francois County Recorder's Office, St. Francois County, Missouri.

Except all that part of Perrine Road right-of-way.

**TRACT 1**

Part of Lot 70 of United States Survey Number 2969, Township 35 North, Range 5 East, in the City of Farmington, St. Francois, County, Missouri, more particularly described as follows:

BEGINNING at a stone marking the northwest corner of said Lot 70, also being the southwest corner of Crosswinds Plat 2 as per plat of record in Plat Book 15, page 163, St. Francois County Recorder's Office; thence S82°45'45"E, along the northerly line of said Lot 70, also being the southerly boundary of said Crosswinds Plat 2, 775.91 feet to the northwest corner of Habitat for Humanity Subdivision, as per plat of record in Plat Book 16, page 473, St. Francois County Recorder's Office; thence S07°05'05"W, along the westerly boundary of said Habitat for Humanity Subdivision, 150.00 feet to the southwesterly corner thereof; thence S31°44'48"W, 10.73 feet; thence northwesterly on a curve to the left having a radius of 250.00 feet, an arc length of 49.78 feet (the chord of said curve being N63°57'29"W, 49.70 feet); thence N69°39'46"W, 36.75 feet; thence westerly on a curve to the left having a radius of 400.00 feet, an arc length of 91.45 feet (the chord of said curve being N76°12'46"W, 91.25 feet); thence N82°45'45"W, 257.95 feet; thence westerly on a curve to the left having a radius of 350.00 feet, an arc length of 87.32 feet (the chord of said curve being N89°54'34"W, 87.09 feet); thence S82°56'37"W, 29.02 feet; thence southwesterly on a curve to the left having a radius of 246.00 feet, an arc length of 187.61 feet (the chord of said curve being S61°05'42"W, 183.10 feet); thence N57°50'37"W,

82.27 feet; thence N06°20'17"E, 216.36 feet to the point of beginning. Containing 2.67 acres.

Subject to the northerly 15 feet of a 30 foot wide Ingress and Egress Easement.

**TRACT 2**

Part of Lot 70 of United States Survey Number 2969, Township 35 North, Range 5 East, in the City of Farmington, St. Francois, County, Missouri, more particularly described as follows:

From a stone marking the northwest corner of said Lot 70, also being the southwest corner of Crosswinds Plat 2 as per plat of record in Plat Book 15, page 163, St. Francois County Recorder's Office; thence S82°45'45"E, along the northerly line of said Lot 70, also being the southerly boundary of said Crosswinds Plat 2, 775.91 feet to the northwest corner of Habitat for Humanity Subdivision, as per plat of record in Plat Book 16, page 473, St. Francois County Recorder's Office; thence S07°05'05"W, along the westerly boundary of said Habitat for Humanity Subdivision, 150.00 feet to the southwesterly corner thereof, and the POINT OF BEGINNING for this description; thence S82°45'45"E, along the southerly boundary of said Habitat for Humanity Subdivision, 167.67 feet to the southeasterly corner thereof; thence S06°25'52"W, 321.27 feet; thence N82°45'45"W, 24.78 feet; thence N03°42'50"E, 128.92 feet; thence northerly, on a curve to the left having a radius of 150.00 feet, an arc length of 85.38 feet (the chord of said curve being N12°35'32"W, 84.23 feet); thence N28°53'54"W, 29.12 feet; thence northwesterly on a curve to the left having a radius of 250.00 feet, an arc length of 128.08 feet (the chord of said curve being N43°34'33"W, 126.69 feet); thence N31°44'48"E, 10.73 feet to the point of beginning. Containing 0.44 acres.

Subject to the northeasterly 15 feet of a 30 foot wide Ingress and Egress Easement.

**TRACT 3**

Part of Lot 70 of United States Survey Number 2969, Township 35 North, Range 5 East, in the City of Farmington, St. Francois, County, Missouri, more particularly described as follows:

From a stone marking the northwest corner of said Lot 70, also being the southwest corner of Crosswinds Plat 2 as per plat of record in Plat Book 15, page 163, St. Francois County Recorder's Office; thence S82°45'45"E, along the northerly line of said Lot 70, also being the southerly boundary of said Crosswinds Plat 2, 775.91 feet to the northwest corner of Habitat for Humanity Subdivision, as per plat of record in Plat Book 16, page 473, St. Francois County Recorder's Office; thence S07°05'05"W, along the westerly boundary of said Habitat for Humanity Subdivision, 150.00 feet to the southwesterly corner thereof; thence S82°45'45"E, along the southerly boundary of said Habitat for Humanity Subdivision, 167.67 feet to the southeasterly corner thereof; thence S06°25'52"W, 321.27 feet; thence N82°45'45"W, 24.78 feet to the POINT OF BEGINNING for this description; thence N82°45'45"W, 160.55 feet; thence N17°45'13"W, 148.11 feet; thence N40°06'01"E, 190.20 feet; thence southeasterly, on a curve to the right having a radius of 250.00 feet, an arc length of 91.64 feet (the chord of said curve being S39°23'56"E, 91.12 feet); thence S28°53'54"E, 29.12 feet; thence southerly, on a curve to the right having a radius of 150.00 feet, an arc length of 85.38 feet (the chord of said curve being S12°35'32"E, 84.23 feet); thence S03°42'50"W, 128.92 feet to the point of beginning. Containing 1.03 acres.

Subject to the westerly 15 feet of a 30 foot wide Ingress and Egress Easement.

**TRACT 4**

Part of Lot 70 of United States Survey Number 2969, Township 35 North, Range 5 East, in the City of Farmington, St. Francois, County, Missouri, more particularly described as follows:

From a stone marking the northwest corner of said Lot 70, also being the southwest corner of Crosswinds Plat 2 as per plat of record in Plat Book 15, page 163, St. Francois County Recorder's Office; thence  $S82^{\circ}45'45''E$ , along the northerly line of said Lot 70, also being the southerly boundary of said Crosswinds Plat 2, 775.91 feet to the northwest corner of Habitat for Humanity Subdivision, as per plat of record in Plat Book 16, page 473, St. Francois County Recorder's Office; thence  $S07^{\circ}05'05''W$ , along the westerly boundary of said Habitat for Humanity Subdivision, 150.00 feet to the southwesterly corner thereof; thence  $S31^{\circ}44'48''W$ , 10.73 feet to the POINT OF BEGINNING for this description; thence southeasterly, on a curve to the right having a radius of 250.00 feet, an arc length of 36.45 feet (the chord of said curve being  $S54^{\circ}04'35''E$ , 36.42 feet); thence  $S40^{\circ}06'01''W$ , 190.20 feet; thence  $N82^{\circ}45'45''W$ , 100.00 feet; thence  $N19^{\circ}19'50''E$ , 213.97 feet; thence easterly, on a curve to the right having a radius of 400.00 feet, an arc length of 44.27 feet (the chord of said curve being  $S72^{\circ}50'00''E$ , 44.25 feet); thence  $S69^{\circ}39'46''E$ , 36.75 feet; thence southeasterly, on a curve to the right having a radius of 250.00 feet, an arc length of 49.78 feet (the chord of said curve being  $S63^{\circ}57'29''E$ , 49.70 feet) to the point of beginning. Containing 0.61 acres.

Subject to the southerly 15 feet of a 30 foot wide Ingress and Egress Easement.

**TRACT 5**

Part of Lot 70 of United States Survey Number 2969, Township 35 North, Range 5 East, in the City of Farmington, St. Francois, County, Missouri, more particularly described as follows:

From a stone marking the northwest corner of said Lot 70, also being the southwest corner of Crosswinds Plat 2 as per plat of record in Plat Book 15, page 163, St. Francois County Recorder's Office; thence  $S82^{\circ}45'45''E$ , along the northerly line of said Lot 70, also being the southerly boundary of said Crosswinds Plat 2, 775.91 feet to the northwest corner of Habitat for Humanity Subdivision, as per plat of record in Plat Book 16, page 473, St. Francois County Recorder's Office; thence  $S07^{\circ}05'05''W$ , along the westerly boundary of said Habitat for Humanity Subdivision, 150.00 feet to the southwesterly corner thereof; thence  $S31^{\circ}44'48''W$ , 10.73 feet; thence westerly on a curve to the left having a radius of 250.00 feet, an arc length of 49.78 feet (the chord of said curve being  $N63^{\circ}57'29''W$ , 49.70 feet); thence  $N69^{\circ}39'46''W$ , 36.75 feet; thence westerly on a curve to the left having a radius of 400.00 feet, an arc length of 44.27 feet (the chord of said curve being  $N72^{\circ}50'00''W$ , 44.25 feet) to the POINT OF BEGINNING for this description; thence  $S19^{\circ}19'50''W$ , 213.97 feet; thence  $N82^{\circ}45'45''W$ , 128.00 feet; thence  $N07^{\circ}14'15''E$ , 212.00 feet; thence  $S82^{\circ}45'45''E$ , 125.75 feet; thence easterly on a curve to the right having a radius of 400.00 feet, an arc length of 47.18 feet (the chord of said curve being  $S79^{\circ}23'00''E$ , 47.15 feet) to the point of beginning. Containing 0.73 acres.

Subject to the southerly 15 feet of a 30 foot wide Ingress and Egress Easement.

**TRACT 6**

Part of Lot 70 of United States Survey Number 2969, Township 35 North, Range 5 East, in the City of Farmington, St. Francois, County, Missouri, more particularly described as follows:

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From a stone marking the northwest corner of said Lot 70, also being the southwest corner of Crosswinds Plat 2 as per plat of record in Plat Book 15, page 163, St. Francois County Recorder's Office; thence S82°45'45"E, along the northerly line of said Lot 70, also being the southerly boundary of said Crosswinds Plat 2, 775.91 feet to the northwest corner of Habitat for Humanity Subdivision, as per plat of record in Plat Book 16, page 473, St. Francois County Recorder's Office; thence S07°05'05"W, along the westerly boundary of said Habitat for Humanity Subdivision, 150.00 feet to the southwesterly corner thereof; thence S31°44'48"W, 10.73 feet; thence westerly on a curve to the left having a radius of 250.00 feet, an arc length of 49.78 feet (the chord of said curve being N63°57'29"W, 49.70 feet); thence N69°39'46"W, 36.75 feet; thence westerly on a curve to the left having a radius of 400.00 feet, an arc length of 91.45 feet (the chord of said curve being N76°12'46"W, 91.25 feet); thence N82°45'45"W, 125.75 feet to the POINT OF BEGINNING for this description; thence S07°14'15"W, 212.00 feet; thence N82°45'45"W, 125.00 feet; thence N05°17'10"W, 214.89 feet; thence easterly, on a curve to the right having a radius of 350.00 feet, an arc length of 39.49 feet (the chord of said curve being S85°59'40"E, 39.47 feet); thence N82°45'45"W, 132.20 feet to the point of beginning. Containing 0.72 acres.

Subject to the southerly 15 feet of a 30 foot wide Ingress and Egress Easement.

#### TRACT 7

Part of Lot 70 of United States Survey Number 2969, Township 35 North, Range 5 East, in the City of Farmington, St. Francois, County, Missouri, more particularly described as follows:

From a stone marking the northwest corner of said Lot 70, also being the southwest corner of Crosswinds Plat 2 as per plat of record in Plat Book 15, page 163, St. Francois County Recorder's Office; thence S82°45'45"E, along the northerly line of said Lot 70, also being the southerly boundary of said Crosswinds Plat 2, 775.91 feet to the northwest corner of Habitat for Humanity Subdivision, as per plat of record in Plat Book 16, page 473, St. Francois County Recorder's Office; thence S07°05'05"W, along the westerly boundary of said Habitat for Humanity Subdivision, 150.00 feet to the southwesterly corner thereof; thence S31°44'48"W, 10.73 feet; thence westerly on a curve to the left having a radius of 250.00 feet, an arc length of 49.78 feet, (the chord of said curve being N63°57'29"W, 49.70 feet); thence N69°39'46"W, 36.75 feet; thence westerly on a curve to the left having a radius of 400.00 feet, an arc length of 91.45 feet, (the chord of said curve being N76°12'46"W, 91.25 feet); thence N82°45'45"W, 257.95 feet; thence westerly, on a curve to the left having a radius of 350.00 feet, an arc length of 39.49 feet, (the chord of said curve being N85°59'40"W, 39.47 feet) to the POINT OF BEGINNING for this description; thence S05°17'10"E, 214.89 feet; thence N82°45'45"W, 84.46 feet; thence N57°50'37"W, 204.13 feet; thence northeasterly, on a curve to the right having a radius of 246.00 feet, an arc length of 187.61 feet, (the chord of said curve being N61°05'42"E, 183.10 feet); thence N82°56'37"E, 29.02 feet; thence easterly, on a curve to the right having a radius of 350.00 feet, an arc length of 47.83 feet, (the chord of said curve being N86°51'30"E, 47.79 feet) to the point of beginning. Containing 0.80 acres.

Subject to the southerly 15 feet of a 30 foot wide Ingress and Egress Easement.

The property hereby authorized to be conveyed by the governor shall be verified by a survey. Such survey shall be authorized by the division of facilities,

management, design and construction of the office of administration pursuant to this section.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 9. CONVEYANCE OF STATE PROPERTY IN FARMINGTON. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property in Farmington, St. Francois County, Missouri, described as follows:**

**TRACT A**

**(Property north of cemetery and south of Doubet Road)**

**Part of Lots 85 and 94 of U.S. Survey 2969, Township 35 North, Range 5 East, St. Francois County, Missouri, more particularly described as follows:**

**From the southeast corner of said Lot 85; thence N82°17'32"W, along the southerly line of said Lot 85, 1134.20 feet; thence N8°01'10"E, 181.95 feet to the POINT OF BEGINNING for this description; thence N82°17'57"W, 537.96 feet to the easterly line of a 30 foot road; thence N7°08'47"E, 1166.91 feet; thence S81°30'19"E, 260.68 feet; thence N9°01'04"E, 206.03 feet to the northerly line of said Lot 94; thence S82°11'48"E, along the northerly line of said Lots 94 and 85, 291.47 feet; thence S8°01'10"W, 1368.72 feet to the point of beginning. Containing 16.00 acres.**

**EXCEPT all that part of right-of-way of DOUBET ROAD**

**TRACT B**

**Part of Lot 94 of U.S. Survey 2969, Township 35 North, Range 5 East, St. Francois County, Missouri, more particularly described as follows:**

**From the southeast corner of Lot 85 of said U.S. Survey 2969; thence N82°17'32"W, along the southerly line of said Lot 85, 1134.20 feet; thence N8°01'10"E, 181.95 feet; thence N82°17'57"W, 537.96 feet to the easterly line of a 30 foot road; thence N7°08'47"E, 320.10 feet to the POINT OF BEGINNING for this description; thence N81°42'19"W, 330.73 feet to the westerly line of a tract of land described by deed of record in Book 1164, page 627, St. Francois County Recorder's Office; thence N7°02'28"E, along the easterly line of said tract, 218.13 feet to the southwesterly corner of a tract of land described by deed of record in Book 834, page 413, St. Francois County Recorder's Office; thence S82°21'13"E, along the southerly line of said tract, described in Book 834, page 413, 331.08 feet to the southeasterly corner thereof also being the easterly line of a 30 foot wide roadway; thence S7°08'47"W, along the easterly line of said roadway, 221.87 feet to the point of beginning. Containing 1.67 acres.**

**EXCEPT a roadway 30 foot wide off the east side of the above described tract identified as Pullan Road in plats of record.**

**TRACT C**

**Part of Lot 94 of U.S. Survey 2969, Township 35 North, Range 5 East, St. Francois County, Missouri, more particularly described as follows:**

**From the southeast corner of Lot 85 of said U.S. Survey 2969; thence N82°17'32"W, along the southerly line of Lot 85 and the southerly line of Lot 94, 1669.38 feet to the POINT OF BEGINNING for this description; thence continuing N82°17'32"W, along the southerly line of said Lot 94, 329.75 feet to the southeasterly corner of a tract of land described by deed of record in Book**

1164, page 627, St. Francois County Recorder's Office; thence N7°02'28"E, along the easterly line of said tract, 505.39 feet; thence S81°42'19"E, 330.73 feet to the easterly line of a 30 foot road; thence S7°08'47"W, along the easterly line of said road, 501.99 feet to the point of beginning. Containing 3.81 acres.

EXCEPT a roadway 30 foot wide off the east side of the above described tract identified as Pullan Road in plats of record.

The property hereby authorized to be conveyed by the governor shall be verified by a survey. Such survey shall be authorized by the division of facilities, management, design and construction of the office of administration pursuant to this section.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 10. CONVEYANCE OF FULTON RECEPTION AND DIAGNOSTIC CORRECTIONAL CENTER PROPERTY IN FULTON.** — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the Fulton Reception and Diagnostic Correctional Center in Fulton, Callaway County, Missouri, described as follows:

**TRACT A**

Part of the Southeast Quarter of Section 16, and part of the West Half of the Southwest Quarter of Section 15, Township 47 North, Range 9 West, Callaway County, Missouri, more particularly described as follows:

BEGINNING at the northwest corner of the Northwest Quarter of the Southwest Quarter of said Section 15; thence S89°41'24"E, along the northerly line of the Northwest Quarter of the Southwest Quarter of said Section 15, 275.73 feet; thence S43°20'20"W, 300.92 feet; thence S8°05'56"W, 304.60 feet; thence S17°41'13"W, 361.72 feet; thence S5°41'53"W, 119.01 feet; thence S19°13'46"E, 558.62 feet; thence N67°06'22"W, 312.53 feet; thence S70°06'18"W, 281.29 feet; thence S33°00'28"W, 139.44 feet to the northerly right-of-way line of Missouri State Route "O", as described in Book 154, page 119, Callaway County Recorder's Office; thence northwesterly along the northerly right-of-way line of Missouri State Route "O", as described in Book 154, page 119 on a curve to the left having a radius of 1462.79 feet, an arc distance of 30.60 feet (Ch=N57°45'00"W, 30.60 feet) to the southeasterly corner of the tract described in Book 315, page 600, Callaway County Recorder's Office; thence N1°36'43"E, along the easterly line of the tracts described in Book 315, page 600 and Book 352, page 299 and the northerly extension thereof, 1610.55 feet to the northerly line of the Northeast Quarter of the Southeast Quarter of said Section 16; thence S87°29'48"E, along the northerly line of the Northeast Quarter of the Southeast Quarter of said Section 16, 520.88 feet to the point of beginning. Containing 18.91 acres.

**TRACT B**

Part of the Northeast Quarter of the Southwest Quarter of Section 15, Township 47 North, Range 9 West, Callaway County, Missouri, more particularly described as follows:

From the center of said Section 15; thence S0°57'07"W, along the Quarter Section Line, 156.02 feet to the POINT OF BEGINNING for this description thence S0°57'07"W, continuing along the Quarter Section Line, 1169.11 feet to

the southeast corner of the Northeast Quarter of the Southwest Quarter of said Section 15; thence N89°33'02"W, along the Quarter Quarter Section Line, 699.01 feet; thence N37°22'48"E, 220.49 feet; thence N25°16'24"E, 146.24 feet; thence N14°35'08"E, 130.09 feet; thence N4°21'20"E, 212.38 feet; thence N16°35'17"E, 144.05 feet; thence N24°19'16"W, 124.59 feet; thence N61°06'31"E, 552.14 feet to the point of beginning. Containing 12.00 acres.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 11. CONVEYANCE OF MARYVILLE TREATMENT CENTER PROPERTY IN MARYVILLE. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the Maryville Treatment Center in Maryville, Nodaway County, Missouri, described as follows:

A Tract of land being part of the Southwest Quarter of Section 14, Township 64 North, Range 35 West, Nodaway County, Missouri, and being more particularly described as follows:

Commencing at the Southwest Corner of said Section 14; thence North 00°35'05" East along the West line of said Section 14 a distance of 963.40 feet to the Point of Beginning; thence continuing North 00°35'05" East along the West line of said Section 14 a distance of 364.65 feet to a point of intersection with the Westerly projection of the North line of a tract of land belonging to the State of Missouri; thence South 89°09'49" East along the North line of said tract of land belonging to the State of Missouri a distance of 800.28 feet; thence South 16° 24' 55" West departing the North line of said tract of land belonging to the State of Missouri a distance of 413.08 feet; thence North 75°25'01" West a distance of 74.74 feet; thence North 67°11'53" West a distance of 3.02 feet to a point of curvature; thence Northwesterly along a curve to the right, having a radius of 108.29 feet, a central angle of 40°49'11", and a distance of 77.15 feet to a point of tangency; thence North 26°22'41" West a distance of 51.08 feet to a point of curvature; thence Westerly along a curve to the left, having a radius of 91.52 feet, a central angle of 62°25'44", and a distance of 99.72 feet to a point of tangency; thence North 88°48'25" West a distance of 53.84 feet; thence South 88°43'03" West a distance of 48.53 feet to a point of curvature; thence Southwesterly along a curve to the left, having a radius of 103.12 feet, a central angle of 34°21'16", and a distance of 61.83 feet to a point of tangency; thence South 54°21'47" West a distance of 16.87 feet to a point of curvature; thence Westerly along a curve to the right, having a radius of 42.52 feet, a central angle of 48°35'05", and a distance of 36.06 feet to a point of tangency; thence North 77°03'09" West a distance of 26.26 feet to a point of curvature; thence Southerly along a curve to the left, having a radius of 60.88 feet, a central angle of 73°32'23", and a distance of 78.14 feet to a point of tangency; thence South 29°24'28" West a distance of 47.92 feet to a point of curvature; thence Westerly along a curve to the right, having a radius of 47.68 feet, a central angle of 60°56'08", and a distance of 47.68 feet to a point on a non-tangent line; thence North 89°39'50" West a distance of 88.48 feet to the Point of Beginning. Containing 228,660.55 square feet or 5.25 acres more or less except that part in Katydid Road right of way.



2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 12. CONVEYANCE OF EASTERN RECEPTION DIAGNOSTIC CORRECTIONAL CENTER PROPERTY IN BONNE TERRE. —** 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the Eastern Reception Diagnostic Correctional Center in Bonne Terre, St. Francois County, Missouri, described as follows:

A Tract of land being part of U.S. Survey 71, Township 37 North, Range 5 East, St. Francois County, Missouri, and being more particularly described as follows:

Commencing at the common corner of U.S. Surveys 71 and 72 on the South line of U.S. Survey 2047; thence North 82°40'13" West along the Northern line of a tract of land described by Special Warranty Deed dated July 18, 2000 in Book 1425, Page 1004, St. Francois County, Missouri a distance of 436.79 feet; thence South 44°13'58" West along the Northwestern line of a tract of land described by aforementioned deed a distance of 1,989.23 feet; thence South 07°25'39" West along the Westerly line of a tract of land described by aforementioned deed a distance of 376.07 feet to the Point of Beginning; thence South 82°34'21" East a distance of 773.01 feet to a point 15 feet south and perpendicular from the southwest corner of existing fence for a sanitary sewer pump station; thence North 88°30'04" East along a line 15 foot parallel offset south with the south line of said existing fence for a sanitary sewer pump station a distance of 20.38 feet to a point not to encroach on a 400 foot parallel offset westerly from the westerly edge of an existing gravel perimeter drive hereinafter referred to as 400 foot buffer zone; thence South 01°56'19" East along said 400 foot buffer zone a distance of 255.11 feet; thence South 00°57'30" West along said 400 foot buffer zone, 215 feet westerly from the west corner of an existing parking lot a distance of 669.14 feet; thence North 83°26'49" West along a Southern course of a tract of land described by aforementioned deed a distance of 723.84 feet; thence North 06°31'26" East along a Western course of a tract of land described by aforementioned deed a distance of 447.39 feet; thence North 84°40'04" West along a Southern course of a tract of land described by aforementioned deed a distance of 179.37 feet; thence North 07°25'39" East along a Western course of a tract of land described by aforementioned deed a distance of 483.69 feet to the Point of Beginning. Containing 707,280.76 square feet or 16.24 acres more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 13. CONVEYANCE OF MISSOURI EASTERN CORRECTIONAL CENTER PROPERTY IN PACIFIC. —** 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the Missouri Eastern Correctional Center in Pacific, St. Louis County, Missouri, described as follows:

A Tract of land being part of Fraction Section 5, Township 43 North, Range 3 East, and United States Survey 148, St. Louis County, Missouri, and being more particularly described as follows:

Commencing at the Southerly most corner of the Eureka Fire Protection District Training Facility, a plat filed for record in Book 350, Page 811 on December 19, 2002 in St. Louis County, Missouri said point also being on the Westerly right of way of U.S. Highway 66 as shown on said Eureka Fire Protection District Training Facility plat; thence North 43°23'00" West along the Southwest line of said Eureka Fire Protection District Training Facility plat and it's Northwesterly projection thereof, said line also being the Northeast line of Allenton Acres, a plat filed for record in Book 47, Page 46 on April 14, 1950 in St. Louis County, Missouri a distance of 1,120.48 feet to the Point of Beginning, said point being at the angle point shown in the Northeast line of said Allenton Acres being marked by a Stone 30.11 feet South of the North corner of Tract No. 19 of said Allenton Acres; thence North 30°13'00" West along the Northeast line of said Allenton Acres a distance of 1,870.21 feet to the East corner of Tract No. 26 of said Allenton Acres; thence North 59°58'00" East along the Northeasterly projection of the Southeasterly line of said Tract No. 26 a distance of 245.64 feet to a point not to encroach on a 200 foot parallel offset Southwesterly from the top of the firing range berm extending Southeasterly to the intersection with the Southwesterly edge of a gravel drive which becomes asphalt, hereinafter referred to as 200 foot buffer zone; thence South 31°55'00" East along said 200 foot buffer zone a distance of 529.34 feet; thence South 26°22'23" East along said 200 foot buffer zone a distance of 826.89 feet; thence South 35°53'59" East along said 200 foot buffer zone a distance of 620.46 feet to a point on a 316.60 foot parallel offset Westerly from the Westerly line of said Eureka Fire Protection District Training Facility plat; thence South 38°15'40" West along said 316.60 foot parallel offset Westerly from the Westerly line of said Eureka Fire Protection District Training Facility plat a distance of 239.61 feet to a point on the Northeast line of said Allenton Acres; thence North 43°23'00" West along the Northeast line of said Allenton Acres a distance of 195.15 feet to the Point of Beginning. Containing 482,550.25 square feet or 11.08 acres more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 14. CONVEYANCE OF SOUTH CENTRAL CORRECTIONAL CENTER PROPERTY IN LICKING.** — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the South Central Correctional Center in Licking, Texas County, Missouri, described as follows:

A Tract of land being part of Lot 1, Northwest 1/4 Section 1, Township 32 North, Range 9 West, Texas County, Missouri, and being more particularly described as follows:

Commencing at the Southwest corner of said Lot 1, of the Northwest 1/4, Section 1, Township 32 North, Range 9 West, said point also being the West Quarter corner of said Section 1, Township 32 North, Range 9 West being marked by a Stone; thence North 00°06'15" West along the West line of said Lot 1, of the Northwest Quarter Section 1, as described by Warranty Deed dated April 6,

1998 in Book 580, Page 88, Texas County, Missouri a distance of 467.02 feet to the Northwest corner of a 5 acre tract of land shown as Tract 1 on a survey by Elgin Surveying and Engineering Inc. dated March 25, 1999 said point also being Point of Beginning; thence continuing North 00°06'15" West along the West line of said Lot 1, of the Northwest Quarter Section 1 as described by aforementioned deed a distance of 882.20 feet to the Northwest corner of said Lot 1, said Northwest corner also being the Northwest corner of the Northwest Quarter of said Section 1; thence South 86°41'01" East along the North line of said Lot 1 as described by aforementioned deed a distance of 1,339.33 feet to the intersection with the Northerly prolongation of the West line of the Northeast Quarter of the Southwest Quarter of said Section 1; thence South 00°21'20" West along the Northerly prolongation of the West line of the Northeast Quarter of the Southwest Quarter of said Section 1; a distance of 1,340.40 feet to the Northwest corner of the Northeast Quarter of the Southwest Quarter of said Section 1; thence North 87°02'15" West along the South line of said Lot 1 as described by aforementioned deed a distance of 861.09 feet to the Southeast corner of said Tract 1; thence North 00°06'15" West along the east line of said Tract 1 a distance of 467.02 feet to the Northeast corner of said Tract 1; thence North 87°02'15" West along the North line of said Tract 1 a distance of 467.02 feet to the Point of Beginning. Containing 1,573,308.10 square feet or 36.12 acres more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 15. CONVEYANCE OF POTOSI CORRECTIONAL CENTER PROPERTY IN POTOSI.**

— 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the Potosi Correctional Center in Potosi, Washington County, Missouri, described as follows:

A Tract of land being part of U.S. Survey 2134, and U.S. Survey 2115 Township 37 North, Range 3 East, Washington County, Missouri, and being more particularly described as follows:

Commencing at the Southwest corner of said U.S. Survey 2134; thence North 08°38'55" East along the West line of said U.S. Survey 2134 and the East line of said U.S. Survey 2115 a distance of 2,263.30 feet to the point of intersection with the North right of way of Missouri Route "O"; thence S 86°07'43" West along the North right of way of said Missouri Route "O" a distance of 552.50 feet to a point on the West line of a tract of land described by Missouri Special Warranty Deed dated August 29, 1996 also being the West line of a tract of land described by Deed of Trust and Security Agreement dated July 15 1992 recorded July 30 1992 in Deed of Trust Book 129 Page 668 in Washington County, Missouri; thence North 04°08'12" West along said West line a distance of 770.00 feet; thence North 85°51'18" East departing said West line a distance of 237.06 feet; thence South 56°00'35" East a distance of 529.53 feet to a point on the West line of said U.S. Survey 2134 and the East line of said U.S. Survey 2115; thence South 04°08'12" East parallel with said West line of a tract of land described by Deed of Trust and Security Agreement dated July 15 1992 recorded July 30 1992 in Deed of Trust Book 129 Page 668 in Washington County, Missouri; a distance of

446.09 feet to the North right of way of said Missouri Route "O" ; thence South 86°07'43" West along the North right of way of said Missouri Route "O" a distance of 101.12 feet to the Point of Beginning. Containing 436,180.00 square feet or 10.01 acres more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 16. CONVEYANCE OF CHILLICOTHE CORRECTIONAL CENTER PROPERTY IN CHILLICOTHE.** — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the Chillicothe Correctional Center in Chillicothe, Livingston County, Missouri, described as follows:

**DEED DESCRIPTION PARENT TRACT:**

The North One Hundred Forty-five and One-half (145 1/2) acres of the Northwest Quarter of Section Nineteen (19), Township Fifty-eight (58), Range Twenty-three (23).

**SURVEY DESCRIPTION:**

A tract of land lying in the Northwest Quarter of Section 19, Township 58 North, Range 23 West, of the fifth principal meridian, being more particularly described as follows:

Commencing at an iron pin marking the Northwest corner of said Section 19; thence along the West line of said Section 19, South 00 degrees 00 minutes 18 seconds East, a distance of 1467.18 feet to the Point of Beginning, thence South 89 degrees 57 minutes 41 seconds East, a distance of 30.00 feet to an iron rod; thence South 89 degrees 57 minutes 41 seconds East, a distance of 732.03 feet to an iron rod; thence South 63 degrees 50 minutes 21 seconds East, a distance of 332.19 feet to an iron rod; thence South 89 degrees 57 minutes 41 seconds East, a distance of 1827.07 feet to an iron rod on the East line of said Northwest Quarter; thence along said East line, South 00 degrees 14 minutes 09 seconds West, a distance of 601.50 to an iron rod; thence North 89 degrees 57 minutes 41 seconds West, a distance of 2884.72 feet to an iron rod on the West line of said Section 19; thence North 00 degrees 00 minutes 18 seconds West, a distance of 747.76 feet to the POINT OF BEGINNING, containing 42.9 acres.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 17. CONVEYANCE OF TIPTON CORRECTIONAL CENTER PROPERTY IN TIPTON.** — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the Tipton Correctional Center in Tipton, Moniteau County, Missouri, described as follows:

**TRACT #1:**

A tract of land lying in the Northwest Quarter of Section 15, Township 45 North, Range 17 West of the fifth principal meridian, Moniteau County, Missouri, being more particularly described as follows:

Beginning at a stone marking the Northeast corner of the Northwest Quarter of said Section 15; thence South 01 degrees 55 minutes 18 seconds West, a distance of 1629.74 feet to an iron pipe; thence North 89 degrees 49 minutes 26 seconds West, a distance of 1195.00 feet to a point on the Easterly right-of-way of State Route B from which an iron pipe bears South 89 degrees 49 minutes 26 seconds East, a distance of 0.80 feet; thence North 01 degrees 59 minutes 40 seconds East, a distance of 356.24 feet to an iron rod; thence along the arc of a tangent curve to the left, having a radius of 603.81 feet for a length of 148.79 feet (chord=N05°03'54"W-148.42') to an iron rod; thence North 90 degrees 00 minutes 00 seconds East, a distance of 411.23 feet to an iron rod; thence North 00 degrees 00 minutes 00 seconds East, a distance of 1016.42 feet to an iron rod; thence North 90 degrees 00 minutes 00 seconds East, a distance of 232.48 feet to an iron rod; thence North 45 degrees 00 minutes 00 seconds East, a distance of 158.22 feet to the North line of said Section 15; thence South 89 degrees 11 minutes 16 seconds East, a distance of 494.81 feet to the POINT OF BEGINNING, containing 34.4 acres.

**TRACT #2:**

A tract of land lying in the Southwest Quarter of the Southwest Quarter of Section 10 and the Northwest Quarter of Section 15, Township 45 North, Range 17 West of the fifth principal meridian, Moniteau County, Missouri, being more particularly described as follows:

Beginning at an iron pipe marking the Northwest corner of said Section 15; thence North 35 degrees 34 minutes 25 seconds East, a distance of 586.57 feet to an iron rod; thence South 02 degrees 01 minutes 15 seconds West, a distance of 2097.22 feet to an iron rod; thence North 89 degrees 45 minutes 08 seconds West, a distance of 317.27 feet to a point on the West line of said Section 15 from which an iron pipe bears South 89 degrees 45 minutes 08 seconds East, a distance of 32.46 feet; thence along said West line, North 01 degrees 46 minutes 13 seconds East, a distance of 195.48 feet (195.54' record) to a point from which an iron rod bears South 89 degrees 40 minutes 35 seconds East, a distance of 30.00 feet; thence South 89 degrees 40 minutes 35 seconds East, a distance of 240.65 feet (240.43' record) to an iron pipe; thence North 01 degrees 30 minutes 39 seconds East, a distance of 364.18 feet to an iron rod; thence North 88 degrees 21 minutes 01 seconds West, a distance of 238.93 feet to an iron pipe on the West line of said Section 15; thence North 01 degrees 46 minutes 13 seconds East, a distance of 1053.00 feet (1052.89' record) to the POINT OF BEGINNING, containing 11.7 acres.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 18. CONVEYANCE OF WOMEN'S EASTERN RECEPTION AND DIAGNOSTIC CORRECTIONAL CENTER PROPERTY IN VANDALIA.** — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the Women's Eastern Reception and Diagnostic Correctional Center in Vandalia, Audrain County, Missouri, described as follows:

**TRACT #1**

A tract of land lying in the Northeast Quarter of Section 5, Township 52 North, Range 5 West of the fifth principal meridian, Audrain County, Missouri being more particularly described as follows:

Beginning at an iron rod marking the Northwest corner of Section 4, Township 52 North, Range 5 West; thence along the East line of said Section 5, South 00 degrees 06 minutes 12 seconds West, a distance of 421.74 feet to an iron rod; thence South 45 degrees 06 minutes 12 seconds West, a distance of 203.01 feet to an iron rod; thence South 02 degrees 32 minutes 35 seconds West, a distance of 844.29 feet to an iron rod; thence South 59 degrees 14 minutes 50 seconds East, a distance of 208.64 feet to an iron rod on the North line of McPike Street; thence along the Northern line of McPike Street, South 59 degrees 58 minutes 55 seconds West, a distance of 683.55 feet to an iron rod; thence along the West line of the East 23 acres (lying North of McPike Street) of the Northeast Quarter of said Section 5, North 00 degrees 06 minutes 12 seconds East, a distance of 1873.87 feet to an iron rod on the North line of said Section 5; thence South 88 degrees 22 minutes 45 seconds East, a distance of 591.45 feet to the POINT OF BEGINNING, containing 19.4 acres.

**TRACT #2**

A tract of land lying in the Northwest Quarter of Section 4, Township 52 North, Range 5 West of the fifth principal meridian, Audrain County, Missouri being more particularly described as follows:

Commencing at an iron rod marking the Northwest corner of said Section 4; thence along the West line of said Section 4, South 00 degrees 06 minutes 12 seconds West, a distance of 1515.19 feet to an iron rod and the POINT OF BEGINNING; thence South 58 degrees 58 minutes 06 seconds East, a distance of 615.40 feet to an iron rod; thence South 71 degrees 06 minutes 15 seconds East, a distance of 439.54 feet to an iron rod; thence South 00 degrees 06 minutes 52 seconds West, a distance of 173.66 feet to an iron rod on the Northerly right-of-way of U.S. Highway 54; thence along said right-of-way, Southwesterly along the arc of a curve the right, having a radius of 1392.39 feet for a length of 331.89 feet (chord = S75°12'14"W - 331.10') to an iron rod at the Southeast corner of a tract conveyed to Giltner in Book 277 at Page 893; thence North 00 degrees 06 minutes 12 seconds East, a distance of 201.55 feet to an iron rod at the Northeast corner of said Giltner tract; thence along the North line of said Giltner tract and it's Westerly extension, North 89 degrees 53 minutes 48 seconds West, a distance of 624.00 feet to a point on the West line of said Section 4 at the Northwest corner of a tract conveyed to Casey's Marketing Company in Book 290 at Page 65; thence along the West line of said Section 4, North 00 degrees 06 minutes 12 seconds East, a distance of 515.13 feet to the POINT OF BEGINNING, containing 6.8 acres.

**TRACT #3**

A tract of land lying in the Northwest Quarter of Section 4, Township 52 North Range 5 West of the fifth principal meridian, Audrain County, Missouri being more particularly described as follows:

Commencing at the Northeast corner of the Northwest Quarter of said Section 4; thence North 88 degrees 12 minutes 50 seconds West, a distance of 420.39 feet to an iron rod and the POINT OF BEGINNING; thence South 00 degrees 20 minutes 10 seconds East, a distance of 660.82 feet to an iron rod at the Northwest corner of a tract conveyed to Davis in Book 212 at Page 104; thence along the West line of said Davis tract extended, South 00 degrees 20 minutes 10 seconds East, a distance of 658.74 feet to an iron rod at Southwest corner of a tract

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conveyed to Heaston in Book 277 at Page 173 said point also being the Northerly right-of-way of U.S. Highway 54; thence along said right-of-way, South 59 degrees 58 minutes 21 seconds West, a distance of 23.02 feet to an iron rod at the Southeast corner of a tract conveyed to Warren County Concrete LLC in Book 296 at page 909; thence North 00 degrees 20 minutes 10 seconds West, a distance of 237.04 feet to an iron rod at the Northeast corner of said tract; thence along the North line of said tract, South 89 degrees 08 minutes 08 seconds West, a distance of 177.91 feet to an iron rod; thence North 00 degrees 20 minutes 10 seconds West, a distance of 1102.95 feet to an iron rod on the North line of said Section 4; thence South 88 degrees 12 minutes 50 seconds East, a distance of 198.04 feet to the POINT OF BEGINNING, containing 5.1 acres.

**TRACT #4**

A tract of land lying in the Northwest Quarter of Section 4, Township 52 North Range 5 West of the fifth principal meridian, Audrain County, Missouri being more particularly described as follows:

Commencing at the Northeast corner of the Northwest Quarter of said Section 4; thence North 88 degrees 12 minutes 50 seconds West, a distance of 213.15 feet to an iron rod and the POINT OF BEGINNING; thence South 00 degrees 20 minutes 10 seconds East, a distance of 660.84 feet to an iron rod at the Northeast corner of a tract conveyed to Davis in Book 212 at Page 104; thence North 88 degrees 12 minutes 43 seconds West, a distance of 207.25 feet to an iron rod at the Northwest corner of said Davis tract; thence North 00 degrees 20 minutes 10 seconds West, a distance of 660.82 feet to an iron rod on the North line of said Section 4; thence South 88 degrees 12 minutes 50 seconds East, a distance of 207.24 feet to the POINT OF BEGINNING, containing 3.1 acres.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 19. CONVEYANCE OF MOBERLY CORRECTIONAL CENTER PROPERTY IN MOBERLY.** — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the Moberly Correctional Center in Moberly, Randolph County, Missouri, described as follows:

**TRACT #1**

A tract of land lying in the South half of the Southwest Quarter of Section 24 of the fifth principal meridian, Randolph County, Missouri being more particularly described as follows:

Commencing at an iron rod marking the Southwest corner of said Section 24; thence South 88 degrees 25 minutes 02 seconds East, a distance of 37.74 feet to an iron rod on the Easterly right-of-way line of Route AA and the POINT OF BEGINNING; thence along said right-of-way the following courses and distances, North 01 degrees 01 minutes 31 Seconds East, a distance of 1255.56 feet to an iron rod; thence North 31 degrees 42 minutes 09 seconds East, a distance of 68.60 feet to an iron rod; thence North 01 degrees 01 minutes 31 seconds East, a distance of 23.23 feet to the North line of the South Half of the Southwest Quarter of said Section 24; thence along said North line, South 88 degrees 20 minutes 53 seconds East, a distance of 1484.22 feet to a cotton gin spike; thence South 06 degrees 00 minutes 00 seconds East, a distance of 961.29

feet to an iron rod; thence South 68 degrees 34 minutes 57 seconds West, a distance of 981.65 feet to an iron rod; thence North 88 degrees 25 minutes 02 seconds West, a distance of 729.33 feet to an iron rod on the Easterly right-of-way line of Route AA and the POINT OF BEGINNING, containing 44.9 acres.

**TRACT #2**

A tract of land lying in the Southeast Quarter of the Northeast Quarter of Section 26, Township 53 North, Range 14 West of the fifth principal meridian, Randolph County, Missouri being more particularly described as follows:

Commencing at an iron rod marking the Southeast corner of said Northeast Quarter of said Section 26; thence along the South line of said Northeast Quarter, North 89 degrees 16 minutes 06 seconds West, a distance of 40.20 feet to an iron rod on the Westerly right-of-way of Route AA and the POINT OF BEGINNING; thence continuing North 89 degrees 16 minutes 06 seconds West, a distance of 895.00 feet to an iron rod; thence North 01 degrees 27 minutes 48 seconds East, a distance of 1170.00 feet to an iron rod; thence South 89 degrees 11 minutes 58 seconds East, a distance of 895.00 feet to an iron rod on the Westerly right-of-way of said Route AA; thence along said right-of-way, South 01 degrees 27 minutes 31 seconds West, a distance of 1135.35 feet to a right-of-way marker; thence South 01 degrees 37 minutes 31 seconds West, a distance of 33.57 feet to the POINT OF BEGINNING, containing 24.0 acres.

**TRACT #3**

A tract of land lying in the Southwest Quarter of the Northeast Quarter of Section 26, Township 53 North, Range 14 West of the fifth principal meridian, Randolph County, Missouri being more particularly described as follows:

Commencing at an iron rod marking the Southwest corner of the Northeast Quarter; thence along the West line of said Northeast Quarter, North 00 degrees 53 minutes 48 seconds East, a distance of 50.00 feet to an iron rod and the POINT OF BEGINNING; thence continuing North 00 degrees 53 minutes 48 seconds East, a distance of 630.43 feet to an iron rod at the centerline of an old railroad bed; thence along said centerline, North 60 degrees 58 minutes 53 seconds East, a distance of 1068.18 feet to an iron rod; thence South 01 degrees 27 minutes 48 seconds West, a distance of 1210.58 feet to an iron rod on the South line of said Northeast Quarter; thence North 89 degrees 16 minutes 06 seconds West, a distance of 250.85 feet to an iron rod; thence North 89 degrees 16 minutes 06 seconds West, a distance of 613.10 feet to an iron rod; thence North 00 degrees 53 minutes 48 seconds East, a distance of 50.00 feet to an iron rod; thence North 89 degrees 16 minutes 06 seconds West, a distance of 50.00 feet to the POINT OF BEGINNING, containing 19.9 acres.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 20. CONVEYANCE OF ST. FRANCOIS COUNTY CORRECTIONAL FACILITY PROPERTY IN FARMINGTON TO ST. FRANCOIS COUNTY. — 1.** The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the St. Francois County Correctional Facility in Farmington, St. Francois County, Missouri, to St. Francois County described as follows:

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Part of Lot 85 of U.S. Survey 2969, Township 35 North, Range 5 East, St. Francois County, Missouri, more particularly described as follows:

From the southeast corner of said Lot 85; thence N82°17'32"W, along the southerly line of said Lot 85, 681.19 feet; thence N8°01'10"E, 1086.14 feet to an iron rod and the POINT OF BEGINNING for this description; thence N81°58'50"W, 453.00 feet to an iron rod; thence N8°01'10"E, 462.07 feet to the northerly line of said Lot 85; thence S81°11'48"E, along the northerly line of said Lot 85, 453.00 feet; thence S8°01'10"W, 463.78 feet to the point of beginning. Containing 4.81 acres.

**EXCEPT all that part of right-of-way of DOUBET ROAD**

**Ingress & Egress Easement Description for above described property at Northwest Driveway**

Part of Lot 85 and Lot 94 of U.S. Survey 2969, Township 35 North, Range 5 East, St. Francois County, Missouri, more particularly described as follows:

From the southeast corner of said Lot 85; thence N82°17'32"W, along the southerly line of said Lot 85, 681.19 feet; thence N8°01'10"E, 1086.14 feet to an iron rod; thence N81°58'50"W, 453.00 feet to an iron rod; thence N8°01'10"E, 382.07 feet to the POINT OF BEGINNING for this description; thence N4°24'17"W, 58.00 feet; thence N41°50'28"E, 36.00 feet to the northerly line of said Lot 94; thence S81°11'48"E, along the northerly line of said Lot 94 and said Lot 85, 40.00 feet; thence S8°01'10"W, 80.00 feet to the point of beginning.

**EXCEPT all that part of right-of-way of DOUBET ROAD**

The property hereby authorized to be conveyed by the governor shall be verified by a survey. Such survey shall be authorized by the division of facilities, management, design and construction of the office of administration pursuant to this section.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 21. CONVEYANCE OF A PERMANENT SIDEWALK EASEMENT FOR ADRIANS ISLAND PROPERTY IN COLE COUNTY TO JEFFERSON CITY. — 1.** The governor is hereby authorized and empowered to sell, transfer, grant, and convey, a permanent sidewalk easement over, on and under property owned by the state of Missouri located at the Adrians Island in Cole County, Missouri to the City of Jefferson. The easement to be conveyed is more particularly described as follows:

From the southeasterly corner of Inlot 69 of said City of Jefferson, Missouri, being a point on the northerly line of West Main Street; thence N47°34'39"W, along the southerly line of said Inlot 69 and the northerly line of West Main Street, 81.24 feet to the most westerly corner of the aforesaid tract of land described in Book 222, page 635, Cole County Recorder's Office; thence N54°20'21"E, along the northwesterly boundary of said tract described in Book 222, page 635, 215.95 feet to the POINT OF BEGINNING for this description; thence continuing N54°20'21"E, along the northwesterly boundary of said tract described in Book 222, page 635, 57.98 feet; thence N74°18'22"E, 21.47 feet; thence Northeasterly, on a curve to the left, having a radius of 53.50 feet, an arc distance of 28.29 feet (the chord of said curve being N59°09'19"E, 27.97 feet); thence N44°00'17"E, 36.99 feet; thence N45°59'43"W, 3.09 feet to a point on the aforesaid northwesterly boundary of the property described in Book 222, page 635; thence N54°20'21"E, along the northwesterly boundary of said property

described in Book 222, page 635, 6.68 feet to the most northerly corner thereof; thence S47°41'54"E, along the northeasterly boundary of said property described in Book 222, page 635, 28.93 feet; thence S68°15'20"W, 18.39 feet; thence S44°00'17"W, 41.47 feet; thence S74°18'22"W, 85.87 feet; thence S61°46'15"W, 15.35 feet to the POINT OF BEGINNING

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 22. CONVEYANCE OF A PERMANENT LEVEE EASEMENT ON CHURCH FARM PROPERTY IN COLE COUNTY TO COLE JUNCTION LEVEE DISTRICT.** — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey, a permanent levee easement over, on and under property owned by the state of Missouri located at the Church Farm in Cole County, Missouri to the Cole Junction Levee District. The easement to be conveyed is more particularly described as follows:

All that part of Grantors property that lies within a 200 foot wide strip of land as it crosses part of the Southeast Quarter of Section 18 in Township 45 North, Range 12 West, all in Cole County, Missouri, and said strip of land lies 100 feet each side of and adjacent to the following described centerline:

From the southeast corner of said Section 18, Township 45 North, Range 12 West; thence N2°45'29"E, along the Section Line, 716.03 feet to the centerline of an unrecorded 200 foot wide easement to The Cole Junction Levee District, dated May 3, 1995 and the POINT OF BEGINNING for this centerline description; thence N50°30'04"W, along the centerline of said unrecorded easement and along the center of the existing levee, 1043.02 feet; thence S68°35'49"W, 1091.24 feet; thence S74°30'43"W, 461.55 feet; thence S12°20'42"W, 480.39 feet to the centerline of the 100 foot wide Missouri Pacific Railroad right-of-way and the Point of Termination.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 23. CONVEYANCE OF A PERMANENT PIPELINE EASEMENT ON MOBERLY CORRECTIONAL CENTER PROPERTY IN MOBERLY TO PANHANDLE EASTERN PIPELINE COMPANY.** — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey, a permanent pipeline easement over, on and under property owned by the state of Missouri located at the Moberly Correctional Center in Randolph County, Missouri to the Panhandle Eastern Pipeline Company, LP a Delaware Limited Partnership. The easement to be conveyed is more particularly described as follows:

**DESCRIPTION OF 8" MOBERLY PIPELINE - SECTION 25**

A tract of land fifty (50) feet in width, being twenty five (25) feet Northerly and twenty five (25) feet Southerly of the following described line of survey. All located in the Northwest Quarter (NW 1/4) of Section 25, Township 53 North, Range 14 West, Randolph County, Missouri.

Commencing at the Northwest corner of said Section 25, a aluminum cap LS1803, thence South 09 degrees, 08 minutes, 08 seconds East, a distance of 363.27 feet to the Point of Beginning. Thence North 88 degrees 05 minutes 07

seconds West, a distance of 67.24 feet to the West line of said Section 25 and the Point of Terminus, from which the said Northwest corner of said Section 25, bears North 01 degrees 31 minutes, 52 seconds East, a distance of 356.54 feet. Said tract of land contains 4.08 linear rods, more or less.

**DESCRIPTION OF 4" CONNECTION - SECTION 25 & 26**

A tract of land fifty (50) feet in width, being twenty five (25) feet Northerly and twenty five (25) feet Southerly of the following described line of survey. All located in the Northeast Quarter (NE 1/4) of Section 26 and the Northwest Quarter (NW 1/4) of Section 25, Township 53 North, Range 14 West, Randolph County, Missouri.

Commencing at the Northeast corner of said Section 26, a aluminum cap LS1803, thence South 06 degrees 33 minutes 48 seconds West , a distance of 1710.22 feet to the Point of Beginning. Thence North 89 degrees 04 minutes 19 seconds East, a distance of 150.16 feet to a point on the East line of said Section 26, the West line of Section 25 and the center of 6 Mile Lane. Thence North 89 degrees 04 minutes 19 seconds East, a distance of 73.98 feet to the Point of Terminus from which the Northwest corner of said Section 25, bears North 00 degrees, 58 minutes 02 seconds West, a distance of 1695.62 feet. Said tract of land contains 9.10 linear rods in Section 26 and 4.48 linear rods in Section 25, more or less.

**DESCRIPTION OF 8" MOBERLY PIPELINE - SECTION 26**

A tract of land fifty (50) feet in width, being twenty five (25) feet Easterly and twenty five (25) feet Westerly of the following described line of survey. All located in the Northeast Quarter (NE 1/4) of Section 26, Township 53 North, Range 14 West, Randolph County, Missouri.

Commencing at the Northeast corner of said Section 26, a aluminum cap LS 1803, thence South 07 degrees 50 minutes 50 seconds West, a distance of 1363.00 feet to the Point of Beginning. Thence South 01 degrees 31 minutes 56 seconds West, a distance of 1323.75 feet to the Point of Terminus from which the said Northeast corner of said Section 26, bears North 04 degrees 44 minutes 13 seconds East, a distance of 2682.67 feet. Said tract of land contains 80.23 linear rods, more or less.

Additional temporary workspace shall be fifty (50) feet in width with additional fifty (50) feet at road crossings for construction, replacement and removal purposes.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 24. CONVEYANCE OF SOUTH EAST MISSOURI MENTAL HEALTH CENTER PROPERTY IN FARMINGTON TO MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION.**

— 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the South East Missouri Mental Health Center located in Farmington, St. Francois County to Missouri Highways and Transportation Commission, described as follows:

A tract of land lying and being situated in part of Lots 76, 77, and 80 of F.W. Rohland Subdivision of United States Survey 2969, a Subdivision filed for record in Deed Book F at Page 441, Township 35 North, Range 5 East of the Fifth

Principal Meridian, City of Farmington, County of St. Francois, State of Missouri being more particularly described as follows:

Commence at a found No. 5 rebar marking the Northwest corner of Lot 62 of said F.W. Rohland Subdivision; thence S36 deg. 46 min. 52 sec. W a distance of 1905.27 feet to a Point, 55.00 feet right of Route 221 centerline station 796+00.00, said point being located on the existing Southerly MHTC (Missouri Highways and Transportation Commission) Boundary line of Route 221 and being the Point of Beginning; thence departing from said MHTC Boundary line; thence S 40 deg. 14 min. 38 sec. W a distance of 304.18 feet to a set Point, 185.00 feet right of Route 221 centerline station 793+25.00; thence S 33 deg. 16 min. 10 sec. W a distance of 224.72 feet to a set Point, 305.00 feet right of Route 221 centerline station 791+35.00; thence S 56 deg. 11 min. 56 sec. W a distance of 86.14 feet to a set Point, 318.99 feet right of Route 221 centerline station 790+50.00; thence N 12 deg. 19 min. 44 sec. E a distance of 225.83 feet to a found Steel MHTC Boundary Marker, 138.13 feet right of Route 221 centerline station 791+85.22; thence N 40 deg. 49 min. 53 sec. E a distance of 127.55 feet to a found Steel MHTC Boundary Marker, 84.80 feet right of Route 221 centerline station 793+01.09; thence N 59 deg. 51 min. 09 sec. E a distance of 300.39 feet to the Point of Beginning, containing 0.95 acres, more or less.

Also, all abutters' rights of direct access between the highway now known as State Rte. 67 and grantor's abutting land in part of Lots 76, 77, and 80 of F.W. Rohland Subdivision of United States Survey 2969, a Subdivision filed for record in Deed Book F at Page 441, Township 35 North, Range 5 East of the Fifth Principal Meridian, City of Farmington, County of St. Francois, State of Missouri.

Also, all abutters' rights of direct access between the exit ramp now known as Ramp 3 and grantor's abutting land in part of Lots 76, 77, and 80 of F.W. Rohland Subdivision of United States Survey 2969, a Subdivision filed for record in Deed Book F at Page 441, Township 35 North, Range 5 East of the Fifth Principal Meridian, City of Farmington, County of St. Francois, State of Missouri. Said Ramp 3 being an exit ramp connecting the northbound lane of the highway now known as State Rte 67 to the highway now designated State Rte. 221, formerly known as State Rte. W.

Also, all abutters' rights of direct access between the highway now designated State Rte. 221, formerly known as State Rte. W and grantor's abutting land in part of Lots 76, 77, and 80 of F.W. Rohland Subdivision of United States Survey 2969, a Subdivision filed for record in Deed Book F at Page 441, Township 35 North, Range 5 East of the Fifth Principal Meridian, City of Farmington, County of St. Francois, State of Missouri.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 25. REAUTHORIZATION OF CONVEYANCE OF SOUTH EAST MISSOURI MENTAL HEALTH CENTER PROPERTY IN FARMINGTON. — 1.** The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the South East Missouri Mental Health Center located in Farmington, St. Francois County, which was previously authorized by

the 95th General Assembly, Second Regular Session in House Bill 2285 in 2010 but contained an error in the legal description and is now corrected and described as follows:

A tract of land situated in the city of Farmington, County of St. Francois and the State of Missouri, lying in part of Lots 76, 77 and 80 of F.W. Rohland Subdivision of United States Survey 2969, a Subdivision filed for record in Deed Book F at Page 441 of the Land records of St. Francois County, Missouri, described as follows:

Commencing at a found No. 5 rebar marking the Northwest corner of Lot 62 of said F.W. Rohland Subdivision, thence South  $36^{\circ}46'10''$  West 1905.10' to a found right-of-way marker on the South right-of-way of Columbia Street (Missouri Highway 221) and the Northwest corner of the United States Army Reserve Center, the POINT OF BEGINNING of the tract herein described: thence along the West line of said Army Reserve Center South  $24^{\circ}38'52''$  East 498.03' to a found No. 5 rebar marking the Southwest corner of said Army Reserve Center; thence South  $16^{\circ}01'44''$  West 238.03' to a point; thence South  $25^{\circ}42'29''$  West 2024.68' to a point; thence North  $81^{\circ}56'11''$  West 30.03' to a point on the East right-of-way of U.S. Highway 67; thence along said East right-of-way of said Highway 67 North  $03^{\circ}47'30''$  East 36.31' to a point; thence continuing along said East right-of-way North  $14^{\circ}42'22''$  East 131.51' to a point; thence continuing along said East right-of-way North  $03^{\circ}26'38''$  West 201.66' to a found right-of-way marker; then continuing along said East right-of-way North  $03^{\circ}45'45''$  East 952.18' to a point; thence continuing along said East right-of-way North  $12^{\circ}19'49''$  East 961.53' to a found right-of-way marker on the East right-of-way of U.S. Highway 67 and the South right-of-way of Columbia Street (Missouri Highway 221); thence along said South right-of-way North  $40^{\circ}51'00''$  East 127.36' to a found right-of-way marker; thence continuing along said South right-of-way North  $59^{\circ}52'29''$  East 300.57' to the point of beginning. Containing 23.96 acres, more or less. Being part of Deed Book 343 at Page 441 and excluding the following 0.95 acres more or less to be conveyed to the Missouri Highways and Transportation Commission and described as follows:

A tract of land lying and being situated in part of Lots 76, 77, and 80 of F.W. Rohland Subdivision of United States Survey 2969, a Subdivision filed for record in Deed Book F at Page 441, Township 35 North, Range 5 East of the Fifth Principal Meridian, City of Farmington, County of St. Francois, State of Missouri being more particularly described as follows:

Commence at a found No. 5 rebar marking the Northwest corner of Lot 62 of said F.W. Rohland Subdivision; thence S36 deg. 46 min. 52 sec. W a distance of 1905.27 feet to a Point, 55.00 feet right of Route 221 centerline station 796+00.00, said point being located on the existing Southerly MHTC (Missouri Highways and Transportation Commission) Boundary line of Route 221 and being the Point of Beginning; thence departing from said MHTC Boundary line; thence S 40 deg. 14 min. 38 sec. W a distance of 304.18 feet to a set Point, 185.00 feet right of Route 221 centerline station 793+25.00; thence S 33 deg. 16 min. 10 sec. W a distance of 224.72 feet to a set Point, 305.00 feet right of Route 221 centerline station 791+35.00; thence S 56 deg. 11 min. 56 sec. W a distance of 86.14 feet to a set Point, 318.99 feet right of Route 221 centerline station 790+50.00; thence N 12 deg. 19 min. 44 sec. E a distance of 225.83 feet to a found Steel MHTC Boundary Marker, 138.13 feet right of Route 221 centerline station 791+85.22; thence N 40 deg. 49 min. 53 sec. E a distance of 127.55 feet to a found Steel MHTC Boundary Marker, 84.80 feet right of Route 221 centerline station 793+01.09; thence N 59

deg. 51 min. 09 sec. E a distance of 300.39 feet to the Point of Beginning, containing 0.95 acres, more or less.

Also, all abutters' rights of direct access between the highway now known as State Rte. 67 and grantor's abutting land in part of Lots 76, 77, and 80 of F.W. Rohland Subdivision of United States Survey 2969, a Subdivision filed for record in Deed Book F at Page 441, Township 35 North, Range 5 East of the Fifth Principal Meridian, City of Farmington, County of St. Francois, State of Missouri.

Also, all abutters' rights of direct access between the exit ramp now known as Ramp 3 and grantor's abutting land in part of Lots 76, 77, and 80 of F.W. Rohland Subdivision of United States Survey 2969, a Subdivision filed for record in Deed Book F at Page 441, Township 35 North, Range 5 East of the Fifth Principal Meridian, City of Farmington, County of St. Francois, State of Missouri. Said Ramp 3 being an exit ramp connecting the northbound lane of the highway now known as State Rte 67 to the highway now designated State Rte. 221, formerly known as State Rte. W.

Also, all abutters' rights of direct access between the highway now designated State Rte. 221, formerly known as State Rte. W and grantor's abutting land in part of Lots 76, 77, and 80 of F.W. Rohland Subdivision of United States Survey 2969, a Subdivision filed for record in Deed Book F at Page 441, Township 35 North, Range 5 East of the Fifth Principal Meridian, City of Farmington, County of St. Francois, State of Missouri.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 26. CONVEYANCE OF NATIONAL GUARD PROPERTY IN CENTERTOWN. — 1.** The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the National Guard site located in Centertown, Cole County, Missouri, described as follows:

Lots Nos. 2, 3 and 4, in Block No. 1, in Flessa's Addition to the town of Centertown, Missouri;

ALSO: Lots Nos. 1, 2, 3 and 4, in Block No. 4, in Flessa's Addition to the town of Centertown, Missouri;

ALSO: The northwest corner of the Northeast quarter of the Southwest quarter of Section 25, Township 45, Range 14, more particularly described as follows: Beginning at the northwest corner of the aforesaid forty; thence south 225 feet, to the south line of Locust Street in the town of Centertown, Missouri; thence east 310 feet; thence north 225 feet, to the north line of the aforesaid forty; thence west 310 feet, to the point of beginning.

ALSO: The southwest corner of the Southeast quarter of the Northwest quarter of Section 25, Township 45, Range 14, more particularly described as follows: Beginning at the southwest corner of the aforesaid forty; thence east 310 feet; thence north 339 feet; thence west 310 feet, to the west line of the aforesaid forty; thence south 339 feet, to the point of beginning.

All in Cole County, Missouri.

Subject to easements and restrictions of record, if any.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may

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include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION 27. CONVEYANCE OF A PERMANENT DRAINAGE EASEMENT ON STATE SCHOOL FOR THE SEVERELY DISABLED PROPERTY IN JOPLIN. — 1.** The governor is hereby authorized and empowered to sell, transfer, grant, convey a permanent drainage easement over, on and under property owned by the state of Missouri located at the Department of Mental Health Regional Office and the Department of Elementary and Secondary Education State School for the Severely Disabled located in Joplin, Jasper County Missouri, described as follows, to-wit:

A tract of land in the S.E. Quarter Of Section 31 Township 28 Range 32 West in the City of Joplin, Jasper County, Missouri, and being a part of the lands of the State of Missouri described in Book 1185 Page 2082 of the Jasper County Land Records;

Commencing at a 1/2" rebar survey monument with Anderson Engineering's survey cap found thereon; Said monument being on the Southern boundary line of College Skyline Addition, a Subdivision in the City of Joplin; Said monument also being 800.00' E. of the N.W. corner of the S.W. Quarter of the S.E. Quarter of said Section; Said monument also being the N.E. corner of the aforesaid lands of the State of Missouri described in Book 1185 Page 2082 of the Jasper County Land Records;

THENCE: Bearing N.89°07'45"W. 326.74' along the Southern boundary line of College Skyline Addition to a point;

Said point being the POINT OF BEGINNING;

COURSE 1: Thence departing said Southern boundary line along a curve to the left as follows: arc length 76.25', arc radius 80.00', chord bearing S.24°56'55"E., chord distance 73.39' to a point;

COURSE 2: Thence Bearing S.52°15'09"E. 347.20' to a point;

COURSE 3: Thence along a curve to the right as follows: arc length 17.24', arc radius 120.00', chord bearing S.48°08'16"E., chord distance 17.22' to a point on the Western boundary line of the lands of Missouri Southern State University;

COURSE 4: Thence continuing along said Western boundary line of the lands of said University, bearing S.01°40'52"W. 93.52' to a point;

COURSE 5: Thence departing said Western boundary line, bearing N.37°37'59"W. 59.00' to a point;

COURSE 6: Thence along a curve to the left as follows: arc length 15.31', arc radius 60.00', chord bearing N.44°56'34"W., chord distance 15.27' to a point;

COURSE 7: Thence bearing N.52°15'09"W. 347.20' to a point;

COURSE 8: Thence along a curve to the right as follows: arc length 131.88', arc radius 140.00', chord bearing N.25°16'00"W., chord distance 127.06' to a point on the Southern boundary line of College Skyline Addition;

COURSE 9: Thence bearing S.89°07'45"E. 60.01' along said Southern boundary line to a point; Said point being the POINT OF BEGINNING;

Containing 0.4727 acres, more-or-less, or 20,593 square feet.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

**SECTION B. EMERGENCY CLAUSE.** — Because immediate action is necessary to generate revenue from the sale of state property, section A of this act are deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and are hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved July 8, 2011

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SB 97 [HCS#2 SB 97]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**Conveys certain property owned by the state.**

AN ACT to authorize the conveyance of real property owned by the state.

**SECTION**

1. Conveyance of state property in Farmington to the City of Farmington.
2. Conveyance of state property in Farmington to the Missouri Highways and Transportation Commission.
3. Conveyance of Southeast Missouri State University property in Cape Girardeau to the Cape Area Habitat for Humanity.
4. Conveyance of state property in Callaway County to the City of Fulton.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION 1. CONVEYANCE OF STATE PROPERTY IN FARMINGTON TO THE CITY OF FARMINGTON.** — 1. **The governor is hereby authorized and empowered to give, sell, transfer, grant, bargain, convey, remise, release, and forever quitclaim all interest of the state of Missouri in real property located in the City of Farmington, St. Francois County, Missouri, to the City of Farmington, Missouri. The property to be conveyed is more particularly described as follows:**

**A tract of land lying and being situated in part of Lots 76, 77, and 80 of F.W. Rohland Subdivision of United States Survey 2969, a Subdivision filed for record in Deed Book F at Page 441, Township 35 North, Range 5 East of the Fifth Principal Meridian, City of Farmington, County of St. Francois, State of Missouri being more particularly described as follows:**

**Commence at a found No. 5 rebar marking the Northwest corner of Lot 62 of said F.W. Rohland Subdivision; thence S 36 deg. 46 min. 52 sec. W a distance of 1905.27 feet to a Point, 55.00 feet right of Route 221 centerline station 796+00.00, said point being located on the existing Southerly MHTC (Missouri Highways and Transportation Commission) Boundary line of Route 221 and being the Point of Beginning; From the Point of Beginning S 24 deg. 38 min. 52 sec. E, a distance of 498.03 feet; thence S 16 deg. 01 min. 44 sec. E, 238.03 feet; thence S 25 deg. 42 min. 49 sec. W, 2024.68 feet; thence N 81 deg. 56 min. 11 sec. W, 30.15 feet; thence N 03 deg. 45 min. 57 sec. E, 36.31 feet; thence N 14 deg. 32 min. 57 sec. E, 133.50 feet; thence N 03 deg. 21 min. 42 sec. W, 201.56 feet; thence N 03 deg. 45 min. 48 sec. E, 950.30 feet; thence N 12 deg. 19 min. 44 sec. E, 735.45 feet; thence N 56 deg. 11 min. 56 sec. E, 86.14 feet; thence N 33 deg. 16 min. 10 sec. E, 224.72 feet; thence N 40 deg. 14 min. 38 sec. E, 304.18 feet to the point of beginning and containing 23.01 acres more or less.**

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2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, and the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

**SECTION 2. CONVEYANCE OF STATE PROPERTY IN FARMINGTON TO THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION. — 1.** The governor is hereby authorized and empowered to give, sell, transfer, grant, bargain, convey, remise, release, and forever quitclaim all interest of the state of Missouri in real property located in the City of Farmington, St. Francois County, Missouri, to the Missouri highways and transportation commission. The property to be conveyed is more particularly described as follows:

A tract of land lying and being situated in part of Lots 76, 77, and 80 of F.W. Rohland Subdivision of United States Survey 2969, a Subdivision filed for record in Deed Book F at Page 441, Township 35 North, Range 5 East of the Fifth Principal Meridian, City of Farmington, County of St. Francois, State of Missouri being more particularly described as follows:

Commence at a found No.5 rebar marking the Northwest Corner of Lot 62 of said F.W. Rohland Subdivision; thence S36 deg. 46 min. 52 sec. W a distance of 1905.27 feet to a Point, 55.00 feet right of Route 221 centerline station 796+00.00, said point being located on the existing Southerly MHTC (Missouri Highways and Transportation Commission) Boundary line of Route 221 and being the Point of Beginning; thence departing from said MHTC Boundary line; thence S 40 deg. 14 min. 38 sec. W a distance of 304.18 feet to a set Point, 185.00 feet right of Route 221 centerline station 793+25.00; thence S 33 deg. 16 min. 10 sec. W a distance of 224.72 feet to a set Point, 305.00 feet right of Route 221 centerline station 791+35.00; thence S 56 deg. 11 min. 56 sec. W a distance of 86.14 feet to a set Point, 318.99 feet right of Route 221 centerline station 790+50.00; thence N 12 deg. 19 min. 44 sec. E a distance of 225.83 feet to a found Steel MHTC Boundary Marker, 138.13 feet right of Route 221 centerline station 791+85.22; thence N 40 deg. 49 min. 53 sec. E a distance of 127.55 feet to a found Steel MHTC Boundary Marker, 84.80 feet right of Route 221 centerline station 793+01.09; thence N 59 deg. 51 min. 09 sec. E a distance of 300.39 feet to the Point of Beginning, containing 0.95 acres, more or less.

Also, all abutters' rights of direct access between the highway now known as State Rte. 67 and grantor's abutting land in part of Lots 76, 77, and 80 of F.W. Rohland Subdivision of United States Survey 2969, a Subdivision filed for record in Deed Book F at Page 441, Township 35 North, Range 5 East of the Fifth Principal Meridian, City of Farmington, County of St. Francois, State of Missouri.

Also, all abutters' rights of direct access between the exit ramp now known as Ramp 3 and grantor's abutting land in part of Lots 76, 77, and 80 of F.W. Rohland Subdivision of United States Survey 2969, a Subdivision filed for record in Deed Book F at Page 441, Township 35 North, Range 5 East of the Fifth Principal Meridian, City of Farmington, County of St. Francois, State of Missouri. Said Ramp 3 being an exit ramp connecting the northbound lane of the highway now known as State Rte 67 to the highway now designated State Rte. 221, formerly known as State Rte. W.

Also, all abutters' rights of direct access between the highway now designated State Rte. 221, formerly known as State Rte. W and grantor's abutting land in part of Lots 76, 77, and 80 of F.W. Rohland Subdivision of United States Survey

2969, a Subdivision filed for record in Deed Book F at Page 441, Township 35 North, Range 5 East of the Fifth Principal Meridian, City of Farmington, County of St. Francois, State of Missouri.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, and the time, place, and terms of the conveyance. Consideration for the conveyance shall be as negotiated by the parties.

3. The attorney general shall approve the form of the instrument of conveyance.

**SECTION 3. CONVEYANCE OF SOUTHEAST MISSOURI STATE UNIVERSITY PROPERTY IN CAPE GIRARDEAU TO THE CAPE AREA HABITAT FOR HUMANITY.** — 1. The board of regents of Southeast Missouri State University is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by Southeast Missouri State University in the City of Cape Girardeau to the Cape Area Habitat for Humanity. The property to be conveyed is located at 319 S. Ellis in the City of Cape Girardeau and is more particularly described as follows:

All of the North 50 feet of lot 70 in range H in the City of Cape Girardeau.

2. The parties shall negotiate and set the terms and conditions for the conveyance. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

**SECTION 4. CONVEYANCE OF STATE PROPERTY IN CALLAWAY COUNTY TO THE CITY OF FULTON.** — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state in Callaway County to the City of Fulton. The property to be conveyed is more particularly described as follows:

Part of Section 16 in Township 47 North, Range 9 West, in the City of Fulton, Callaway County, Missouri, more particularly described as follows:

**TRACT 1:** Commencing at the northwest corner of the Northeast Quarter of the Southwest Quarter of said Section 16; thence S1°34'55"W, along the Quarter-Quarter Section Line, 1553.12 feet to the southerly right of way of Missouri State Route "O", as described in Book 154, Page 119, Callaway County Recorder's Office; thence S89°01'33"E, along the southerly right of way of said Missouri State Route "O", 525.24 feet; thence on a curve to the left having a radius of 1940.39 feet, an arc distance of 11.95 feet (Ch=S89°12'08"E, 11.95 feet) to the POINT OF BEGINNING for this description; thence continuing along the southerly right of way line of said Missouri State Route "O" the following courses and distances: on a curve to the left having a radius of 1940.39 feet, an arc distance of 388.23 feet (Ch=N84°53'22"E, 387.59 feet); thence N79°09'27"E, 245.94 feet; thence leaving the said Hwy. right of way S04°40'06"E, 77.57 feet; thence on a curve to the right having a radius of 72.00 feet, an arc distance of 61.43 feet (Ch=S19°46'31"W, 59.59 feet); thence on a curve to the left having a radius of 280 feet, an arc distance of 148.34 feet (Ch=S29°02'28"W, 146.62 feet); thence S13°51'49"W, 453.89 feet; thence on a curve to the left having a radius of 270 feet, an arc distance of 212.47 feet (Ch=S08°40'47"E, 207.03 feet); thence S20°19'55"W, 261.02 feet; thence N87°23'57"W, 418.88 feet; thence N02°23'59"E, 1052.77 feet to the point of beginning.

Containing 12.66

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**TRACT 2: Being a 60 feet wide public right of way, described as follows:**

Commencing at the Northeast corner of the above described tract; thence continuing N79°09'27"E, 47.86 feet; thence on a curve to the right having a radius of 686.52 feet, an arc distance of 12.48 feet (Ch=N79°40'39"E, 12.48 feet); thence leaving the said Hwy. right of way S04°40'06"E, 83.94 feet; thence on a curve to the right having a radius of 132.00 feet, an arc distance of 112.63 feet (Ch=S19°41'06"W, 108.87 feet); thence on a curve to the left having a radius of 220.00 feet, an arc distance of 116.56 feet (Ch=S29°05'42"W, 115.60 feet); thence S13°51'49"E, 435.89 feet; thence on a curve to the left having a radius of 210.00 feet, an arc distance of 111.64 feet (Ch=S01°21'56"E, 110.33 feet); thence S20°19'55"W, 85.30 feet to a point; thence on a curve to the right having a radius of 270.00 feet, an arc distance of 212.47 feet (Ch=N08°40'47"W, 207.03 feet); thence N13°51'49"E, 453.89 feet; thence on a curve to the right having a radius of 280.00 feet, an arc distance of 148.34 feet (Ch=N29°02'28"E, 146.62 feet); thence on a curve to the left having a radius of 72.00 feet, an arc distance of 61.43 feet (Ch=N19°46'31"E, 59.59 feet); thence N04°40'06"W, 77.57 feet to the point of beginning.

Containing 1.26

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

Approved July 8, 2011

SB 101 [SB 101]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**Creates requirements for contractors who perform home exterior and roof work.**

AN ACT to amend chapter 407, RSMo, by adding thereto one new section relating to home exterior contractors, with penalty provisions.

**SECTION**

A. Enacting clause.

407.725. Work and services for insured persons, contractors not to induce sales — cancellation of contracts, requirements, contractor duties — violations, penalty.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Chapter 407, RSMo, is amended by adding thereto one new section, to be known as section 407.725, to read as follows:

**407.725. WORK AND SERVICES FOR INSURED PERSONS, CONTRACTORS NOT TO INDUCE SALES — CANCELLATION OF CONTRACTS, REQUIREMENTS, CONTRACTOR DUTIES — VIOLATIONS, PENALTY.** — 1. As used in this section, the following terms mean:

(1) "Residential contractor", a person or entity in the business of contracting or offering to contract with an owner or possessor of residential real estate to repair or

replace roof systems or perform any other exterior repair, replacement, construction, or reconstruction work on residential real estate;

(2) "Residential real estate", a new or existing building constructed for habitation by one to four families, including detached garages;

(3) "Roof system", includes roof coverings, roof sheathing, roof weatherproofing, and insulation.

2. A residential contractor shall not advertise or promise to pay or rebate all or any portion of any insurance deductible as an inducement to the sale of goods or services. As used in this section, a promise to pay or rebate includes granting any allowance or offering any discount against the fees to be charged or paying the insured or any person directly or indirectly associated with the property any form of compensation, gift, prize, bonus, coupon, credit, referral fee, or other item of monetary value for any reason.

3. A person who has entered into a written contract with a residential contractor to provide goods or services to be paid under a property and casualty insurance policy may cancel the contract prior to midnight on the fifth business day after the insured party has received written notice from the insurer that all or any part of the claim or contract is not a covered loss under the insurance policy. Cancellation shall be evidenced by the insured party giving written notice of cancellation to the residential contractor at the address stated in the contract. Notice of cancellation, if given by mail, shall be effective upon deposit into the United States mail, postage prepaid and properly addressed to the residential contractor. Notice of cancellation need not take a particular form and shall be sufficient if it indicates, by any form of written expression, the intention of the insured party not to be bound by the contract.

4. Before entering a contract referred to in subsection 3 of this section, the residential contractor shall:

(1) Furnish the insured party a statement in boldface type of a minimum size of ten points, in substantially the following form:

"You may cancel this contract at any time before midnight on the fifth business day after you have received written notification from your insurer that all or any part of the claim or contract is not a covered loss under the insurance policy. See attached notice of cancellation form for an explanation of this right."; and

(2) Furnish each insured a fully completed form in duplicate, captioned "NOTICE OF CANCELLATION", which shall be attached to the contract but easily detachable, and which shall contain, in boldface type of a minimum size of ten points, the following statement:

**"NOTICE OF CANCELLATION**

If you are notified by your insurer that all or any part of the claim or contract is not a covered loss under the insurance policy, you may cancel the contract by mailing or delivering a signed and dated copy of this cancellation notice or any other written notice to (name of contractor) at (address of contractor's place of business) at any time prior to midnight on the fifth business day after you have received such notice from your insurer. If you cancel, any payments made by you under the contract, except for certain emergency work already performed by the contractor, will be returned to you within ten business days following receipt by the contractor of your cancellation notice.

**I HEREBY CANCEL THIS TRANSACTION**

\_\_\_\_\_  
(date)

\_\_\_\_\_  
(insured's signature)".

5. Within ten days after a contract referred to in subsection 3 of this section has been cancelled, the contractor shall tender to the owner or possessor of residential real estate any payments, partial payments, or deposits made and any note or other evidence of indebtedness. If, however, the contractor has performed any emergency services, acknowledged by the insured in writing to be necessary to prevent damage to the premises, the contractor shall be entitled to the reasonable value of such services. Any provision in a contract referred to in subsection 3 of this section that requires the payment of any fee for anything except emergency services shall not be enforceable against the owner or possessor of residential real estate who has cancelled a contract pursuant to this section.

6. A residential contractor shall not represent or negotiate, or offer or advertise to represent or negotiate, on behalf of an owner or possessor of residential real estate on any insurance claim in connection with the repair or replacement of roof systems, or the performance of any other exterior repair, replacement, construction, or reconstruction work.

7. Any violation of this section by a residential contractor shall be considered an unfair practice pursuant to the Missouri merchandising practices act as codified in this chapter.

Approved June 30, 2011

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SB 108 [SCS SB 108]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**Removes the expiration date for provisions of law concerning the installation of fire sprinklers in certain dwellings.**

AN ACT to repeal section 67.281 as enacted by senate substitute no. 2 for senate committee substitute for house bill no. 103, ninety-fifth general assembly, first regular session, and section 67.281 as enacted by conference committee substitute for senate bill no. 513, ninety-fifth general assembly, first regular session, and to enact in lieu thereof one new section relating to the installation of fire sprinklers in certain dwellings.

**SECTION**

- A. Enacting clause.
- 67.281. Installation of fire sprinklers to be offered to purchaser by builder of certain dwellings — purchaser may decline — expiration date.
- 67.281. Installation of fire sprinklers to be offered to purchaser by builder of certain dwellings — purchaser may decline — expiration date.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Section 67.281 as enacted by senate substitute no. 2 for senate committee substitute for house bill no. 103, ninety-fifth general assembly, first regular session, and section 67.281 as enacted by conference committee substitute for senate bill no. 513, ninety-fifth general assembly, first regular session, is repealed and one new section enacted in lieu thereof, to be known as section 67.281, to read as follows:

**67.281. INSTALLATION OF FIRE SPRINKLERS TO BE OFFERED TO PURCHASER BY BUILDER OF CERTAIN DWELLINGS — PURCHASER MAY DECLINE — EXPIRATION DATE. — 1.**

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A builder of [single-family] **one- or two-family** dwellings or [residences or multi-unit dwellings of four or fewer units] **townhouses** shall offer to any purchaser on or before the time of entering into the purchase contract the option, at the purchaser's cost, to install or equip fire sprinklers in the dwelling[, residence,] or [unit] **townhouse**. Notwithstanding any other provision of law to the contrary, no purchaser of such a [single-family] **one- or two-family** dwelling[, residence,] or [multi-unit dwelling] **townhouse** shall be denied the right to choose or decline to install a fire sprinkler system in such dwelling or [residence] **townhouse** being purchased by any code, ordinance, rule, regulation, order, or resolution by any county or other political subdivision. Any county or other political subdivision shall provide in any such code, ordinance, rule, regulation, order, or resolution the mandatory option for purchasers to have the right to choose and the requirement that builders offer to purchasers the option to purchase fire sprinklers in connection with the purchase of any [single family] **one- or two-family** dwelling[, residence,] or [multi-unit dwelling of four or fewer units] **townhouse**. The provisions of this section shall expire on December 31, [2011] **2019**.

**2. Any governing body of any political subdivision that adopts the 2009 International Residential Code for One- and Two-Family Dwellings or a subsequent edition of such code without mandated automatic fire sprinkler systems in Section R313 of such code shall retain the language in section R317 of the 2006 International Residential Code for two-family dwellings (R317.1) and townhouses (R317.2).**

**[67.281. INSTALLATION OF FIRE SPRINKLERS TO BE OFFERED TO PURCHASER BY BUILDER OF CERTAIN DWELLINGS — PURCHASER MAY DECLINE — EXPIRATION DATE.** — On or before the date of entering into a purchase contract, any builder of single-family dwellings or residences or multifamily dwellings of four or fewer units shall offer to any purchaser the option to install or equip such dwellings or residences with a fire sprinkler system at the purchaser's cost. Notwithstanding any other provision of law to the contrary, no code, order, ordinance, rule, regulation, or resolution adopted by any political subdivision shall be construed to deny any purchaser of any such dwelling or residence the option to choose or decline the installation or equipping of such dwelling or residence with a fire sprinkler system. Any code, order, ordinance, rule, regulation, or resolution adopted by any political subdivision shall include a provision requiring each builder to provide each purchaser of any such dwelling or residence with the option of purchasing a fire sprinkler system for such dwelling or residence. This section shall expire on December 31, 2011.]

Approved April 29, 2011

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SB 113 [SS SCS SBs 113 & 95]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**Modifies the Puppy Mill Cruelty Prevention Act.**

AN ACT to repeal sections 273.327 and 273.345, RSMo, and to enact in lieu thereof four new sections relating to the care of dogs, with penalty provisions.

SECTION

A. Enacting clause.

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- 273.327. License annually required to operate animal boarding facilities, pet shops, pounds, dealers and commercial breeders — fees, exemption from fees for certain licensees.
- 273.345. Canine Cruelty Prevention Act — citation of law — purpose — required care — definitions — veterinary records — space requirements — severability clause.
- 273.347. Court action for enforcement, when — crime of canine cruelty, penalty.
1. Stacked cages without impervious barrier prohibited, penalty.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 273.327 and 273.345, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 273.327, 273.345, 273.347, and 1, to read as follows:

**273.327. LICENSE ANNUALLY REQUIRED TO OPERATE ANIMAL BOARDING FACILITIES, PET SHOPS, POUNDS, DEALERS AND COMMERCIAL BREEDERS — FEES, EXEMPTION FROM FEES FOR CERTAIN LICENSEES.** — No person shall operate an animal shelter, pound or dog pound, boarding kennel, commercial kennel, contract kennel, pet shop, or exhibition facility, other than a limited show or exhibit, or act as a dealer or commercial breeder, unless such person has obtained a license for such operations from the director. An applicant shall obtain a separate license for each separate physical facility subject to sections 273.325 to 273.357 which is operated by the applicant. Any person exempt from the licensing requirements of sections 273.325 to 273.357 may voluntarily apply for a license. Application for such license shall be made in the manner provided by the director. The license shall expire annually unless revoked. As provided by rules to be promulgated by the director, the license fee shall range from one hundred to **two thousand** five hundred dollars per year. **Each licensee subject to sections 273.325 to 273.357 shall pay an additional annual fee of twenty-five dollars to be used by the department of agriculture for the purpose of administering Operation Bark Alert or any successor program.** Pounds or dog pounds shall be exempt from payment of [such fee] **the fees under this section.** License fees shall be levied for each license issued or renewed on or after January 1, 1993.

**273.345. CANINE CRUELTY PREVENTION ACT — CITATION OF LAW — PURPOSE — REQUIRED CARE — DEFINITIONS — VETERINARY RECORDS — SPACE REQUIREMENTS — SEVERABILITY CLAUSE.** — 1. This section shall be known and may be cited as the "[Puppy Mill] **Canine** Cruelty Prevention Act."

2. The purpose of this act is to prohibit the cruel and inhumane treatment of dogs [in puppy mills] **bred in large operations** by requiring large-scale dog breeding operations to provide each dog under their care with basic food and water, adequate shelter from the elements, necessary veterinary care, adequate space to turn around and stretch his or her limbs, and regular exercise.

3. Notwithstanding any other provision of law, any person having custody or ownership of more than ten female covered dogs for the purpose of breeding those animals and selling any offspring for use as a pet shall provide each covered dog:

- (1) Sufficient food and clean water;
- (2) Necessary veterinary care;
- (3) Sufficient housing, including protection from the elements;
- (4) Sufficient space to turn and stretch freely, lie down, and fully extend his or her limbs;
- (5) Regular exercise; and
- (6) Adequate rest between breeding cycles.

4. [Notwithstanding any other provision of law, no person may have custody of more than fifty covered dogs for the purpose of breeding those animals and selling any offspring for use as a pet.

5.] For purposes of this section and notwithstanding the provisions of section 273.325, the following terms have the following meanings:

(1) "Adequate rest between breeding cycles" means, at minimum, ensuring that **female** dogs are not bred to produce more [than two] litters in any [eighteen-month] **given period than what is recommended by a licensed veterinarian as appropriate for the species, age, and health of the dog;**

(2) "Covered dog" means any individual of the species of the domestic dog, *Canis lupus familiaris*, or resultant hybrids, that is over the age of six months and has intact sexual organs;

(3) "Necessary veterinary care" means[, at minimum, examination at least once yearly] **at least two personal visual inspections annually** by a licensed veterinarian, **guidance from a licensed veterinarian on preventative care, an exercise plan that has been approved by a licensed veterinarian, normal and prudent attention to skin, coat, and nails,** prompt treatment of any illness or injury [by a licensed veterinarian], and where needed, humane euthanasia by a licensed veterinarian using lawful techniques deemed acceptable by the American Veterinary Medical Association. **If, during the course of a routine personal visual inspection, the licensed veterinarian detects signs of disease or injury, then a physical examination of any such afflicted dog shall be conducted by a licensed veterinarian;**

(4) "Person" means any individual, firm, partnership, joint venture, association, limited liability company, corporation, estate, trust, receiver, or syndicate;

(5) "Pet" means any [domesticated animal] **species of the domestic dog, *Canis lupus familiaris*, or resultant hybrids,** normally maintained in or near the household of the owner thereof;

(6) "Regular exercise" means [constant and unfettered access to an outdoor exercise area that is composed of a solid ground-level surface with adequate drainage, provides some protection against sun, wind, rain, and snow, and provides each dog at least twice the square footage of the indoor floor space provided to that dog] **the type and amount of exercise sufficient to comply with an exercise plan that has been approved by a licensed veterinarian, developed in accordance with regulations regarding exercise promulgated by the Missouri department of agriculture, and where such plan affords the dog maximum opportunity for outdoor exercise as weather permits;**

(7) "Retail pet store" means a person or retail establishment open to the public where dogs are bought, sold, exchanged, or offered for retail sale directly to the public to be kept as pets, but that does not engage in any breeding of dogs for the purpose of selling any offspring for use as a pet;

(8) "Sufficient food and clean water" means [access to appropriate nutritious food at least once a day sufficient to maintain good health, and continuous access to potable water that is not frozen and is free of debris, feces, algae, and other contaminants]:

(a) **The provision, at suitable intervals of not more than twelve hours, unless the dietary requirements of the species requires a longer interval, of a quantity of wholesome foodstuff, suitable for the species and age, enough to maintain a reasonable level of nutrition in each animal. All foodstuffs shall be served in a safe receptacle, dish, or container; and**

(b) **The provision of a supply of potable water in a safe receptacle, dish, or container. Water shall be provided continuously or at intervals suitable to the species, with no interval to exceed eight hours;**

(9) "Sufficient housing, including protection from the elements" means [constant and unfettered access to an indoor enclosure that has a solid floor, is not stacked or otherwise placed on top of or below another animal's enclosure, is cleaned of waste at least once a day while the dog is outside the enclosure, and does not fall below forty-five degrees Fahrenheit, or rise above eighty-five degrees Fahrenheit] **the continuous provision of a sanitary facility, the provision of a solid**

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surface on which to lie in a recumbent position, protection from the extremes of weather conditions, proper ventilation, and appropriate space depending on the species of animal as required by regulations of the Missouri department of agriculture. No dog shall remain inside its enclosure while the enclosure is being cleaned. Dogs housed within the same enclosure shall be compatible, in accordance with regulations promulgated by the Missouri department of agriculture;

(10) "Sufficient space to turn and stretch freely, lie down, and fully extend his or her limbs" means [having:

(a) Sufficient indoor space for each dog to turn in a complete circle without any impediment (including a tether);

(b) Enough indoor space for each dog to lie down and fully extend his or her limbs and stretch freely without touching the side of an enclosure or another dog;

(c) At least one foot of headroom above the head of the tallest dog in the enclosure; and

(d) At least twelve square feet of indoor floor space per each dog up to twenty-five inches long, at least twenty square feet of indoor floor space per each dog between twenty-five and thirty-five inches long, and at least thirty square feet of indoor floor space per each dog for dogs thirty-five inches and longer (with the length of the dog measured from the tip of the nose to the base of the tail)] **appropriate space depending on the species of the animal, as specified in regulations by the Missouri department of agriculture, as revised.**

[6. A person is guilty of the crime of puppy mill cruelty when he or she knowingly violates any provision of this section. The crime of puppy mill cruelty is a class C misdemeanor, unless the defendant has previously pled guilty to or been found guilty of a violation of this section, in which case each such violation is a class A misdemeanor. Each violation of this section shall constitute a separate offense. If any violation of this section meets the definition of animal abuse in section 578.012, the defendant may be charged and penalized under that section instead.

**7.] 5. Any person subject to the provisions of this section shall maintain all veterinary records and sales records for the most recent previous two years. These records shall be made available to the state veterinarian, a state or local animal welfare official, or a law enforcement agent upon request.**

**6.** The provisions of this section are in addition to, and not in lieu of, any other state and federal laws protecting animal welfare. This section shall not be construed to limit any state law or regulation protecting the welfare of animals, nor shall anything in this section prevent a local governing body from adopting and enforcing its own animal welfare laws and regulations in addition to this section. This section shall not be construed to place any numerical limits on the number of dogs a person may own or control when such dogs are not used for breeding those animals and selling any offspring for use as a pet. This section shall not apply to a dog during examination, testing, operation, recuperation, or other individual treatment for veterinary purposes, during lawful scientific research, during transportation, during cleaning of a [dogs] **dog's** enclosure, during supervised outdoor exercise, or during any emergency that places a [dogs] **dog's** life in imminent danger. [This section shall not apply to any retail pet store, animal shelter as defined in section 273.325, hobby or show breeders who have custody of no more than ten female covered dogs for the purpose of breeding those dogs and selling any offspring for use as a pet, or dog trainer who does not breed and sell any dogs for use as a pet.] Nothing in this section shall be construed to limit hunting or the ability to breed, raise, [or] sell [hunting], **control, train, or possess dogs with the intention to use such dogs for hunting or other sporting purposes.**

[8.] **7.** If any provision of this section, or the application thereof to any person or circumstances, is held invalid or unconstitutional, that invalidity or unconstitutionality shall not affect other provisions or applications of this section that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this section are severable.

[9.] 8. The provisions herewith shall become operative one year after passage of this act.

**273.347. COURT ACTION FOR ENFORCEMENT, WHEN — CRIME OF CANINE CRUELTY, PENALTY. — 1.** Whenever the state veterinarian or a state animal welfare official finds past violations of sections 273.325 to 273.357 have occurred and have not been corrected or addressed, including operating without a valid license under section 273.327, the director may request the attorney general or the county prosecuting attorney or circuit attorney to bring an action in circuit court in the county where the violations have occurred for a temporary restraining order, preliminary injunction, permanent injunction, or a remedial order enforceable in a circuit court to correct such violations and, in addition, the court may assess a civil penalty in an amount not to exceed one thousand dollars for each violation. Each violation shall constitute a separate offense.

2. A person commits the crime of canine cruelty if such person repeatedly violates sections 273.325 to 273.357 so as to pose a substantial risk to the health and welfare of animals in such person's custody, or knowingly violates an agreed-to remedial order involving the safety and welfare of animals under this section. The crime of canine cruelty is a class C misdemeanor, unless the person has previously pled guilty or nolo contendere to or been found guilty of a violation of this subsection, in which case, each such violation is a class A misdemeanor.

3. The attorney general or the county prosecuting attorney or circuit attorney may bring an action under sections 273.325 to 273.357 in circuit court in the county where the crime has occurred for criminal punishment.

4. No action under this section shall prevent or preclude action taken under section 578.012 or under subsection 3 of section 273.329.

**SECTION 1. STACKED CAGES WITHOUT IMPERVIOUS BARRIER PROHIBITED, PENALTY.** — Any person required to have a license under sections 273.325 to 273.357 who houses animals in stacked cages without an impervious barrier between the levels of such cages, except when cleaning such cages, is guilty of a class A misdemeanor.

Approved April 27, 2011

## SB 117 [CCS HCS#2 SCS SB 117]

**EXPLANATION —** Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**Allows the imposition of a hospital district sales tax in lieu of a property tax to fund certain hospital districts.**

AN ACT to repeal sections 67.1303, 67.1521, 94.900, 140.410, 140.660, 144.032, RSMo, and to enact in lieu thereof eight new sections relating to certain taxes imposed by political subdivisions, with an emergency clause for certain sections.

### SECTION

A. Enacting clause.

67.1303. Sales tax authorized in certain cities and counties, rate — ballot, effective date — use of revenue, limitations — deposit of funds — economic development tax board required, membership, terms — board duties — annual report — repeal.

67.1521. Special assessments, petition, funds, how collected — added to annual real estate bill, Boone County.

- 94.585. Sales tax authorized (Excelsior Springs) — ballot language — deposit of revenue generated — repeal, procedure — board established, duties — limitation on refinancing.
- 94.900. Sales tax authorized (Blue Springs, Excelsior Springs, Harrisonville, Peculiar, St. Joseph) — proceeds to be used for public safety purposes — ballot language — collection of tax, procedure.
- 140.410. Execution and record of deed by purchaser — failure — assignment prohibited, when — recording fee required, when.
- 144.032. Cities or counties may impose sales tax on utilities — determination of domestic use.
- 205.205. Hospital district sales tax authorized (Iron and Madison counties) — approval by voters — fund created, use of moneys — repeal of tax, procedure.
  - 1. Sales tax authorized (Columbia) — ballot language — deposit of revenue generated — fund created, purpose — refunds, when.
- 140.660. Tax commission to prescribe forms, interpret laws.
  - B. Emergency clause.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 67.1303, 67.1521, 94.900, 140.410, 140.660, and 144.032, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 67.1303, 67.1521, 94.585, 94.900, 140.410, 144.032, 205.205, and 1, to read as follows:

**67.1303. SALES TAX AUTHORIZED IN CERTAIN CITIES AND COUNTIES, RATE — BALLOT, EFFECTIVE DATE — USE OF REVENUE, LIMITATIONS — DEPOSIT OF FUNDS — ECONOMIC DEVELOPMENT TAX BOARD REQUIRED, MEMBERSHIP, TERMS — BOARD DUTIES — ANNUAL REPORT — REPEAL.** — 1. The governing body of any home rule city with more than one hundred fifty-one thousand five hundred but less than one hundred fifty-one thousand six hundred inhabitants, any home rule city with more than forty-five thousand five hundred but less than forty-five thousand nine hundred inhabitants and the governing body of any city within any county of the first classification with more than one hundred four thousand six hundred but less than one hundred four thousand seven hundred inhabitants and the governing body of any county of the third classification without a township form of government and with more than forty thousand eight hundred but less than forty thousand nine hundred inhabitants or any city within such county may impose, by order or ordinance, a sales tax on all retail sales made in the city or county which are subject to sales tax under chapter 144. In addition, the governing body of any county of the first classification with more than eighty-five thousand nine hundred but less than eighty-six thousand inhabitants or the governing body of any home rule city with more than seventy-three thousand but less than seventy-five thousand inhabitants may impose, by order or ordinance, a sales tax on all retail sales made in the city or county which are subject to sales tax under chapter 144. The tax authorized in this section shall not be more than one-half of one percent. The order or ordinance imposing the tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at a state general or primary election a proposal to authorize the governing body to impose a tax under this section. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes.

2. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall ..... (insert the name of the city or county) impose a sales tax at a rate of ..... (insert rate of percent) percent for economic development purposes?

☐ YES      ☐ NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question,

provided that no proposal shall be resubmitted to the voters sooner than twelve months from the date of the submission of the last proposal.

3. No revenue generated by the tax authorized in this section shall be used for any retail development project. At least twenty percent of the revenue generated by the tax authorized in this section shall be used solely for projects directly related to long-term economic development preparation, including, but not limited to, the following:

- (1) Acquisition of land;
- (2) Installation of infrastructure for industrial or business parks;
- (3) Improvement of water and wastewater treatment capacity;
- (4) Extension of streets;
- (5) Providing matching dollars for state or federal grants;
- (6) Marketing;
- (7) **Construction and operation of job training and educational facilities;**

(8) Providing grants and low-interest loans to companies for job training, equipment acquisition, site development, and infrastructure. Not more than twenty-five percent of the revenue generated may be used annually for administrative purposes, including staff and facility costs.

4. All revenue generated by the tax shall be deposited in a special trust fund and shall be used solely for the designated purposes. If the tax is repealed, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes. Any funds in the special trust fund which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other city or county funds.

5. Any city or county imposing the tax authorized in this section shall establish an economic development tax board. The board shall consist of eleven members, to be appointed as follows:

(1) Two members shall be appointed by the school boards whose districts are included within any economic development plan or area funded by the sales tax authorized in this section. Such members shall be appointed in any manner agreed upon by the affected districts;

(2) One member shall be appointed, in any manner agreed upon by the affected districts, to represent all other districts levying ad valorem taxes within the area selected for an economic development project or area funded by the sales tax authorized in this section, excluding representatives of the governing body of the city or county;

(3) One member shall be appointed by the largest public school district in the city or county;

(4) In each city or county, five members shall be appointed by the chief elected officer of the city or county with the consent of the majority of the governing body of the city or county;

(5) In each city, two members shall be appointed by the governing body of the city in which the city is located. In each county, two members shall be appointed by the governing body of the county. At the option of the members appointed by a city or county the members who are appointed by the school boards and other taxing districts may serve on the board for a term to coincide with the length of time an economic development project, plan, or designation of an economic development area is considered for approval by the board, or for the definite terms as provided in this subsection. If the members representing school districts and other taxing districts are appointed for a term coinciding with the length of time an economic development project, plan, or area is approved, such term shall terminate upon final approval of the project, plan, or designation of the area by the governing body of the city or county. If any school district or other taxing jurisdiction fails to appoint members of the board within thirty days of receipt of written notice of a proposed economic development plan, economic development project, or designation of an economic development area, the remaining members may proceed to exercise the power of the board. Of the members first appointed by the city or county, three shall be designated to serve for terms of two years, three shall be designated to serve for a term of three years, and the remaining members shall be designated to serve for a term of four years from the date of such initial appointments. Thereafter, the members appointed by the city or county shall serve for a term

of four years, except that all vacancies shall be filled for unexpired terms in the same manner as were the original appointments.

6. The board, subject to approval of the governing body of the city or county, shall develop economic development plans, economic development projects, or designations of an economic development area, and shall hold public hearings and provide notice of any such hearings. The board shall vote on all proposed economic development plans, economic development projects, or designations of an economic development area, and amendments thereto, within thirty days following completion of the hearing on any such plan, project, or designation, and shall make recommendations to the governing body within ninety days of the hearing concerning the adoption of or amendment to economic development plans, economic development projects, or designations of an economic development area.

7. The board shall report at least annually to the governing body of the city or county on the use of the funds provided under this section and on the progress of any plan, project, or designation adopted under this section.

8. The governing body of any city or county that has adopted the sales tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the city or county. The ballot of submission shall be in substantially the following form:

Shall ..... (insert the name of the city or county) repeal the sales tax imposed at a rate of ..... (insert rate of percent) percent for economic development purposes?

☐ YES      ☐ NO

If a majority of the votes cast on the proposal are in favor of repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters of the city or county, and the repeal is approved by a majority of the qualified voters voting on the question.

9. Whenever the governing body of any city or county that has adopted the sales tax authorized in this section receives a petition, signed by ten percent of the registered voters of the city or county voting in the last gubernatorial election, calling for an election to repeal the sales tax imposed under this section, the governing body shall submit to the voters a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the tax shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

**67.1521. SPECIAL ASSESSMENTS, PETITION, FUNDS, HOW COLLECTED — ADDED TO ANNUAL REAL ESTATE BILL, BOONE COUNTY.** — 1. A district may levy by resolution one or more special assessments against real property within its boundaries, upon receipt of and in accordance with a petition signed by:

(1) Owners of real property collectively owning more than fifty percent by assessed value of real property within the boundaries of the district; and

(2) More than fifty percent per capita of the owners of all real property within the boundaries of the district.

2. The special assessment petition shall be in substantially the following form:

The ..... (insert name of district) Community Improvement District ("District") shall be authorized to levy special assessments against real property benefited within the District for the purpose of providing revenue for ..... (insert general description of specific service and/or projects) in the district, such special assessments to be levied against each tract, lot or parcel

of real property listed below within the district which receives special benefit as a result of such service and/or projects, the cost of which shall be allocated among this property by ..... (insert method of allocation, e.g., per square foot of property, per square foot on each square foot of improvement, or by abutting foot of property abutting streets, roads, highways, parks or other improvements, or any other reasonable method) in an amount not to exceed ..... dollars per (insert unit of measure). Such authorization to levy the special assessment shall expire on ..... (insert date). The tracts of land located in the district which will receive special benefit from this service and/or projects are: ..... (list of properties by common addresses and legal descriptions).

3. The method for allocating such special assessments set forth in the petition may be any reasonable method which results in imposing assessments upon real property benefited in relation to the benefit conferred upon each respective tract, lot or parcel of real property and the cost to provide such benefit.

4. By resolution of the board, the district may levy a special assessment rate lower than the rate ceiling set forth in the petition authorizing the special assessment and may increase such lowered special assessment rate to a level not exceeding the special assessment rate ceiling set forth in the petition without further approval of the real property owners; provided that a district imposing a special assessment pursuant to this section may not repeal or amend such special assessment or lower the rate of such special assessment if such repeal, amendment or lower rate will impair the district's ability to pay any liabilities that it has incurred, money that it has borrowed or obligations that it has issued.

5. Each special assessment which is due and owing shall constitute a perpetual lien against each tract, lot or parcel of property from which it is derived. Such lien may be foreclosed in the same manner as any other special assessment lien as provided in section 88.861. **Notwithstanding the provisions of this subsection and section 67.1541 to the contrary, in any county of the first classification with more than one hundred thirty-five thousand four hundred but fewer than one hundred thirty-five thousand five hundred inhabitants, the county collector may, upon certification by the district for collection, add each special assessment to the annual real estate tax bill for the property and collect the assessment in the same manner the collector uses for real estate taxes. In said counties, each special assessment remaining unpaid on the first day of January annually is delinquent and enforcement of collection of the delinquent bill by the county collector shall be governed by the laws concerning delinquent and back taxes. The lien may be foreclosed in the same manner as a tax upon real property by land tax sale under chapter 140 or, if applicable to that county, chapter 141.**

6. A separate fund or account shall be created by the district for each special assessment levied and each fund or account shall be identifiable by a suitable title. The proceeds of such assessments shall be credited to such fund or account. Such fund or account shall be used solely to pay the costs incurred in undertaking the specified service or project.

7. Upon completion of the specified service or project or both, the balance remaining in the fund or account established for such specified service or project or both shall be returned or credited against the amount of the original assessment of each parcel of property pro rata based on the method of assessment of such special assessment.

8. Any funds in a fund or account created pursuant to this section which are not needed for current expenditures may be invested by the board in accordance with applicable laws relating to the investment of funds of the city in which the district is located.

9. The authority of the district to levy special assessments shall be independent of the limitations and authorities of the municipality in which it is located; specifically, the provisions of section 88.812 shall not apply to any district.

**94.585. SALES TAX AUTHORIZED (EXCELSIOR SPRINGS) — BALLOT LANGUAGE — DEPOSIT OF REVENUE GENERATED — REPEAL, PROCEDURE — BOARD ESTABLISHED, DUTIES — LIMITATION ON REFINANCING. — 1.** The governing body of any city of the third classification with more than ten thousand eight hundred but fewer than ten thousand nine hundred inhabitants and located in more than one county may impose, by order or ordinance, a sales tax on all retail sales made within the city which are subject to sales tax under chapter 144. The tax authorized in this section shall not exceed one percent, and shall be imposed solely for the purpose of funding the construction, maintenance, operation, and equipping of a community center and retiring any bonds issued for such purposes. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes.

**2.** No such order or ordinance adopted under this section shall become effective unless the governing body of the city submits to the voters residing within the city at a state general, primary, or special election a proposal to authorize the governing body of the city to impose a tax and issue bonds under this section. Such a proposal may include only the proposal to impose a sales tax or a proposal to issue bonds and to impose a sales tax to retire such bonds.

**3.** The ballot of submission shall contain, but need not be limited to the following language:

**(1)** If the proposal submitted involves only authorization to impose the tax authorized by this section, the following language:

Shall the municipality of ..... (municipality's name) impose a sales tax of ..... (insert amount) for a period of twenty-five years for the purpose of funding the construction, maintenance, operation, and equipping of a community center which may include the retirement of debt under previously authorized bonded indebtedness?

**(2)** If the proposal submitted involves authorization to issue bonds and repay such bonds with revenues from the tax authorized by this section, the following language:

Shall the municipality of ..... (municipality's name) issue bonds in the amount ..... of ..... (insert amount) for a period of twenty-five years to fund construction, maintenance, operation, and equipping of a community center and impose a sales tax of ..... (insert amount) to repay bonds?

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter after the director of revenue receives notification of adoption of the local sales tax, except that any proposal submitted to issue bonds shall be approved by the constitutionally required percentage of the voters voting thereon to become effective. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by the requisite majority of the qualified voters voting on the question. In no event shall a proposal under this section be submitted to the voters sooner than twelve months from the date of the last proposal under this section.

**4.** Except as modified in this section, all provisions of sections 32.085 and 32.087 shall apply to the tax imposed under this section.

**5.** All revenue collected under this section by the director of the department of revenue on behalf of any city, except for one percent for the cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, shall be deposited in a special trust fund, which is hereby created and shall be known as the "City Community Center Sales Tax Trust Fund", and shall be used solely for the designated purposes. Moneys in the fund shall not be deemed to be state funds, and shall not be commingled with any funds of the state. The

director may make refunds from the amounts in the fund and credited to the city for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such city. Any funds in the special fund which are not needed for meeting current obligations under any bond issued under this section or for current expenditures shall be invested in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

6. The governing body of any city that has adopted the sales tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the city. Except as provided in subsection 9 of this section, if a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

7. Whenever the governing body of any city that has adopted the sales tax authorized in this section receives a petition, signed by a number of registered voters of the city equal to at least ten percent of the number of registered voters of the city voting in the last gubernatorial election, calling for an election to repeal the sales tax imposed under this section, the governing body shall submit to the voters of the city a proposal to repeal the tax. Except as provided in subsection 9 of this section, if a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, the repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

8. If the tax is repealed or terminated by any means, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes, and the city shall notify the director of the department of revenue of the action at least ninety days before the effective date of the repeal and the director may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such city, the director shall remit the balance in the account to the city and close the account of that city. The director shall notify each city of each instance of any amount refunded or any check redeemed from receipts due the city.

9. No sales tax imposed under this section shall be terminated until all of any bonds issued under this section have been retired.

10. The sales tax imposed under this section shall be imposed for a period of twenty-five years, and may be extended upon the approval of the voters of the city in the same manner in which the sales tax was adopted.

11. The city shall establish a board consisting of seven members, one of which shall be the mayor of the city, to administer the provisions of this section with such powers and duties which shall be delegated by the governing body of the city.

12. No bonds issued under this section shall be refinanced for a term longer than the number of years remaining on the original terms of the bonds being refinanced without the approval of the voters of the city. Any proposal to refinance such bonds submitted to the voters shall include the number of years the bonds will be refinanced and the number of years the sales tax will be extended to repay such refinanced bonds.



**94.900. SALES TAX AUTHORIZED (BLUE SPRINGS, EXCELSIOR SPRINGS, HARRISONVILLE, PECULIAR, ST. JOSEPH) — PROCEEDS TO BE USED FOR PUBLIC SAFETY PURPOSES — BALLOT LANGUAGE — COLLECTION OF TAX, PROCEDURE. — 1. (1) The governing body of the following cities may impose a tax as provided in this section:**

(a) Any city of the third classification with more than ten thousand eight hundred but less than ten thousand nine hundred inhabitants located at least partly within a county of the first classification with more than one hundred eighty-four thousand but less than one hundred eighty-eight thousand inhabitants[, or];

(b) Any city of the fourth classification with more than eight thousand nine hundred but fewer than nine thousand inhabitants[, or];

(c) Any city of the fourth classification with more than two thousand six hundred but fewer than two thousand seven hundred inhabitants and located in any county of the first classification with more than eighty-two thousand but fewer than eighty-two thousand one hundred inhabitants[, or];

(d) Any home rule city with more than forty-eight thousand but fewer than forty-nine thousand inhabitants;

**(e) Any home rule city with more than seventy-three thousand but fewer than seventy-five thousand inhabitants.**

(2) The governing body of any city listed in subdivision (1) of this subsection is hereby authorized to impose, by ordinance or order, a sales tax in the amount of up to one-half of one percent on all retail sales made in such city which are subject to taxation under the provisions of sections 144.010 to 144.525 for the purpose of improving the public safety for such city, including but not limited to expenditures on equipment, city employee salaries and benefits, and facilities for police, fire and emergency medical providers. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law, except that no ordinance or order imposing a sales tax pursuant to the provisions of this section shall be effective unless the governing body of the city submits to the voters of the city, at a county or state general, primary or special election, a proposal to authorize the governing body of the city to impose a tax.

2. If the proposal submitted involves only authorization to impose the tax authorized by this section, the ballot of submission shall contain, but need not be limited to, the following language:

Shall the city of ..... (city's name) impose a citywide sales tax of ..... (insert amount) for the purpose of improving the public safety of the city?

☐ YES      ☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal submitted pursuant to this subsection, then the ordinance or order and any amendments thereto shall be in effect on the first day of the second calendar quarter after the director of revenue receives notification of adoption of the local sales tax. If a proposal receives less than the required majority, then the governing body of the city shall have no power to impose the sales tax herein authorized unless and until the governing body of the city shall again have submitted another proposal to authorize the governing body of the city to impose the sales tax authorized by this section and such proposal is approved by the required majority of the qualified voters voting thereon. However, in no event shall a proposal pursuant to this section be submitted to the voters sooner than twelve months from the date of the last proposal pursuant to this section.

3. All revenue received by a city from the tax authorized under the provisions of this section shall be deposited in a special trust fund and shall be used solely for improving the public safety for such city for so long as the tax shall remain in effect.

4. Once the tax authorized by this section is abolished or is terminated by any means, all funds remaining in the special trust fund shall be used solely for improving the public safety for the

city. Any funds in such special trust fund which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other city funds.

5. All sales taxes collected by the director of the department of revenue under this section on behalf of any city, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, shall be deposited in a special trust fund, which is hereby created, to be known as the "City Public Safety Sales Tax Trust Fund". The moneys in the trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The provisions of section 33.080 to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of the general revenue fund. The director of the department of revenue shall keep accurate records of the amount of money in the trust and which was collected in each city imposing a sales tax pursuant to this section, and the records shall be open to the inspection of officers of the city and the public. Not later than the tenth day of each month the director of the department of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the city which levied the tax; such funds shall be deposited with the city treasurer of each such city, and all expenditures of funds arising from the trust fund shall be by an appropriation act to be enacted by the governing body of each such city. Expenditures may be made from the fund for any functions authorized in the ordinance or order adopted by the governing body submitting the tax to the voters.

6. The director of the department of revenue may make refunds from the amounts in the trust fund and credited to any city for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such cities. If any city abolishes the tax, the city shall notify the director of the department of revenue of the action at least ninety days prior to the effective date of the repeal and the director of the department of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such city, the director of the department of revenue shall remit the balance in the account to the city and close the account of that city. The director of the department of revenue shall notify each city of each instance of any amount refunded or any check redeemed from receipts due the city.

7. Except as modified in this section, all provisions of sections 32.085 and 32.087 shall apply to the tax imposed pursuant to this section.

**140.410. EXECUTION AND RECORD OF DEED BY PURCHASER — FAILURE — ASSIGNMENT PROHIBITED, WHEN — RECORDING FEE REQUIRED, WHEN. —** In all cases where lands have been or may hereafter be sold for delinquent taxes, penalty, interest and costs due thereon, and a certificate of purchase has been or may hereafter be issued, it is hereby made the duty of such purchaser, his heirs or assigns, to cause **all subsequent taxes to be paid on the property purchased prior to the issuance of any collector's deed, and the purchaser shall further cause** a deed to be executed and placed on record in the proper county **all** within two years from the date of said sale; provided, that on failure of said purchaser, his heirs or assigns so to do, then and in that case the amount due such purchaser shall cease to be a lien on said lands so purchased as herein provided. **Upon the purchaser's forfeiture of all rights of the property acquired by the certificate of purchase issued, and including the nonpayment of all subsequent years' taxes as described in this section, it shall be the responsibility of the collector to record the cancellation of the certificate of purchase in the office of the recorder of deeds of the county.** Certificates of purchase cannot be assigned to nonresidents or delinquent taxpayers. **However,** any person purchasing property at a delinquent land tax sale **who meets the requirements of this section, prior to receiving a collector's deed,** shall pay to the

collector the fee necessary for the recording of such [collector] **collector's** deed to be issued. It shall be the responsibility of the collector to record the deed before delivering such deed to the purchaser of the property.

**144.032. CITIES OR COUNTIES MAY IMPOSE SALES TAX ON UTILITIES — DETERMINATION OF DOMESTIC USE.** — The provisions of section 144.030 to the contrary notwithstanding, any city imposing a sales tax under the provisions of sections 94.500 to 94.570, or any county imposing a sales tax under the provisions of sections 66.600 to 66.635, or any county imposing a sales tax under the provisions of sections 67.500 to 67.729, **or any hospital district imposing a sales tax under the provisions of section 206.165**, may by ordinance impose a sales tax upon all sales of metered water services, electricity, electrical current and natural, artificial or propane gas, wood, coal, or home heating oil for domestic use only. Such tax shall be administered by the department of revenue and assessed by the retailer in the same manner as any other city [or], county, **or hospital district** sales tax. Domestic use shall be determined in the same manner as the determination of domestic use for exemption of such sales from the state sales tax under the provisions of section 144.030.

**205.205. HOSPITAL DISTRICT SALES TAX AUTHORIZED (IRON AND MADISON COUNTIES) — APPROVAL BY VOTERS — FUND CREATED, USE OF MONEYS — REPEAL OF TAX, PROCEDURE.** — **1.** The governing body of any hospital district established under sections 205.160 to 205.379 in any county of the third classification without a township form of government and with more than ten thousand six hundred but fewer than ten thousand seven hundred inhabitants or any county of the third classification without a township form of government and with more than eleven thousand seven hundred fifty but fewer than eleven thousand eight hundred fifty inhabitants may, by resolution, abolish the property tax authorized in such district under this chapter and impose a sales tax on all retail sales made within the district which are subject to sales tax under chapter 144 and all sales of metered water services, electricity, electrical current and natural, artificial or propane gas, wood, coal, or home heating oil for domestic use only as provided under section 144.032. The tax authorized in this section shall be not more than one percent, and shall be imposed solely for the purpose of funding the hospital district. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes.

**2.** No such resolution adopted under this section shall become effective unless the governing body of the hospital district submits to the voters residing within the district at a state general, primary, or special election a proposal to authorize the governing body of the district to impose a tax under this section. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter after the director of revenue receives notification of adoption of the local sales tax. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question.

**3.** All revenue collected under this section by the director of the department of revenue on behalf of the hospital district, except for one percent for the cost of collection which shall be deposited in the state's general revenue fund, shall be deposited in a special trust fund, which is hereby created and shall be known as the "Hospital District Sales Tax Fund", and shall be used solely for the designated purposes. Moneys in the fund shall not be deemed to be state funds, and shall not be commingled with any funds of the state. The director may make refunds from the amounts in the fund and credited to the district for

erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such district. Any funds in the special fund which are not needed for current expenditures shall be invested in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. The governing body of any hospital district that has adopted the sales tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the district. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

5. Whenever the governing body of any hospital district that has adopted the sales tax authorized in this section receives a petition, signed by a number of registered voters of the district equal to at least ten percent of the number of registered voters of the district voting in the last gubernatorial election, calling for an election to repeal the sales tax imposed under this section, the governing body shall submit to the voters of the district a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, the repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

6. If the tax is repealed or terminated by any means, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes, and the hospital district shall notify the director of the department of revenue of the action at least ninety days before the effective date of the repeal and the director may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such district, the director shall remit the balance in the account to the district and close the account of that district. The director shall notify each district of each instance of any amount refunded or any check redeemed from receipts due the district.

**SECTION 1. SALES TAX AUTHORIZED (COLUMBIA) — BALLOT LANGUAGE — DEPOSIT OF REVENUE GENERATED — FUND CREATED, PURPOSE — REFUNDS, WHEN. — 1.** The governing body of any home rule city with more than eighty-four thousand five hundred but fewer than eighty-four thousand six hundred inhabitants is hereby authorized to impose, by ordinance or order, a sales tax in the amount of up to one percent on all retail sales made in such city which are subject to taxation under the provisions of sections 144.010 to 144.525 for the purpose of capital improvements for public safety for such city, including but not limited to expenditures for new construction and equipment, repair and maintenance of buildings and equipment, and for financing such capital improvements for public safety. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law, except that no ordinance or order imposing a sales tax pursuant to the provisions of this section shall be effective unless the governing body of the

city submits to the voters of the city, at a county or state general, primary or special election, a proposal to authorize the governing body of the city to impose a tax.

2. If the proposal submitted involves only authorization to impose the tax authorized by this section, the ballot of submission shall contain, but need not be limited to, the following language:

Shall the city of ..... (city's name) impose a citywide sales tax of ..... (insert amount) for the purpose of capital improvements for public safety of the city?

☐ YES      ☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal submitted pursuant to this subsection, then the ordinance or order and any amendments thereto shall be in effect on the first day of the second calendar quarter after the director of revenue receives notification of adoption of the local sales tax. If a proposal receives less than the required majority, then the governing body of the city shall have no power to impose the sales tax herein authorized unless and until the governing body of the city shall again have submitted another proposal to authorize the governing body of the city to impose the sales tax authorized by this section and such proposal is approved by the required majority of the qualified voters voting thereon. However, in no event shall a proposal pursuant to this section be submitted to the voters sooner than twelve months from the date of the last proposal pursuant to this section.

3. All revenue received by a city from the tax authorized under the provisions of this section shall be deposited in a special trust fund and shall be used solely for capital improvements for public safety for such city for so long as the tax shall remain in effect.

4. Once the tax authorized by this section is abolished or is terminated by any means, all funds remaining in the special trust fund shall be used solely for capital improvements for public safety for the city. Any funds in such special trust fund which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other city funds.

5. All sales taxes collected by the director of the department of revenue under this section on behalf of any city, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, shall be deposited in a special trust fund, which is hereby created, to be known as the "City Capital Improvements for Public Safety Sales Tax Trust Fund". The moneys in the trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The provisions of section 33.080 to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of the general revenue fund. The director of the department of revenue shall keep accurate records of the amount of money in the trust and which was collected in each city imposing a sales tax pursuant to this section, and the records shall be open to the inspection of officers of the city and the public. Not later than the tenth day of each month the director of the department of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the city which levied the tax; such funds shall be deposited with the city treasurer of each such city, and all expenditures of funds arising from the trust fund shall be by an appropriation act to be enacted by the governing body of each such city. Expenditures may be made from the fund for any functions authorized in the ordinance or order adopted by the governing body submitting the tax to the voters.

6. The director of the department of revenue may make refunds from the amounts in the trust fund and credited to any city for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such cities. If any

city abolishes the tax, the city shall notify the director of the department of revenue of the action at least ninety days prior to the effective date of the repeal and the director of the department of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such city, the director of the department of revenue shall remit the balance in the account to the city and close the account of that city. The director of the department of revenue shall notify each city of each instance of any amount refunded or any check redeemed from receipts due the city.

7. Except as modified in this section, all provisions of sections 32.085 and 32.087 shall apply to the tax imposed pursuant to this section.

**[140.660. TAX COMMISSION TO PRESCRIBE FORMS, INTERPRET LAWS.** — The state tax commission shall prescribe the forms of all certificates, blanks and books required under the provisions of this law and shall, with the advice of the attorney general, decide all questions that arise in reference to the true construction or interpretation of this law, or any part thereof, with reference to the powers and duties of county or township tax officers, and the decision shall have force and effect until modified or annulled by the judgment or decree of a court of competent jurisdiction.]

**SECTION B. EMERGENCY CLAUSE.** — Because of the need to adequately fund hospital districts in the state, the repeal and reenactment of section 144.032 and the enactment of section 205.205 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 144.032 and the enactment of section 205.205 of section A of this act shall be in full force and effect upon its passage and approval.

Approved June 9, 2011

## SB 132 [HCS SS SCS SB 132]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**Modifies the law regarding motor vehicle extended service contracts.**

AN ACT to repeal sections 375.916, 384.015, 384.017, 384.021, 384.043, 384.051, 384.057, 384.061, 385.200, 385.206, and 385.208, RSMo, and to enact in lieu thereof twenty-seven new sections relating to certain specialty lines insurance contracts, with penalty provisions, an emergency clause for certain sections, and an effective date for certain sections.

### SECTION

- A. Enacting clause.
- 44.114. Local licensing or registration ordinances, prohibition on imposition of restrictions or enforcement on insurer's claims handling operations, when.
- 375.916. Retaliatory tax, how assessed and paid, exceptions — workers' compensation paid losses, how treated.
- 379.1500. Definitions.
- 379.1505. Vendor license required — application, fee — termination date.
- 379.1510. Authorization to sell, vendor responsibilities — eligibility and underwriting standards — supervising business entity to be appointed, purpose — training requirements — collection of charges.

- 379.1515. Insurance producers act, applicability of.
- 379.1520. Sanctioning of license, when — penalties, when.
- 379.1525. Vendor investigation and examination requirements.
- 379.1530. Premiums, received by insurer, when — proof of purchase, insurer may require.
- 379.1535. Violations, director's authority.
- 379.1540. Supervising business entity, sanctioning of license, when.
- 379.1545. Insurers, permissible acts.
- 379.1550. Rulemaking authority — effective date.
- 384.015. Definitions.
- 384.017. Nonadmitted insurers, purchases from allowed, when.
- 384.021. Nonadmitted insurers, limitation on furnishing coverage — exempt commercial purchaser, licensee exemptions.
- 384.043. Licensing requirements for insurance producers, fee — examination, exception — renewal, when, violation, effect — national database, participation in.
- 384.051. Insured to file report on surplus lines insurance not obtained through a broker — contents, when due — tax imposed, procedure to collect tax.
- 384.057. Licensee to file annual statement, contents — report to director, contents.
- 384.061. Premium tax to be levied only on entire gross premium for nonadmitted or surplus lines insurance policies.
- 385.200. Definitions.
- 385.205. Delivery within commercially feasible time period — copy of contract to be delivered to consumer, when — violation, penalty.
- 385.206. Sale of contracts, prohibited acts — dealers not to be used as fronting companies — required contract contents — violations, penalty.
- 385.207. Business entity producer and individual producer licenses required — application requirements — issuance, renewal — rulemaking authority.
- 385.208. Deceptive practices.
- 385.209. Licensure sanctioning, when — notification by director, when — producer to notify director, when.
- 385.211. Register of business entity producers to be maintained — inspection of list — updating of registry, when.
  - B. Emergency clause.
  - C. Effective date.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 375.916, 384.015, 384.017, 384.021, 384.043, 384.051, 384.057, 384.061, 385.200, 385.206, and 385.208, RSMo, are repealed and twenty-seven new sections enacted in lieu thereof, to be known as sections 44.114, 375.916, 379.1500, 379.1505, 379.1510, 379.1515, 379.1520, 379.1525, 379.1530, 379.1535, 379.1540, 379.1545, 379.1550, 384.015, 384.017, 384.021, 384.043, 384.051, 384.057, 384.061, 385.200, 385.205, 385.206, 385.207, 385.208, 385.209, and 385.211, to read as follows:

**44.114. LOCAL LICENSING OR REGISTRATION ORDINANCES, PROHIBITION ON IMPOSITION OF RESTRICTIONS OR ENFORCEMENT ON INSURER'S CLAIMS HANDLING OPERATIONS, WHEN.** — Except as otherwise provided in this section, at the time of any emergency, catastrophe or other life or property threatening event which jeopardizes the ability of an insurer to address the financial needs of its insureds or the public, no political subdivision shall impose restrictions or enforce local licensing or registration ordinances with respect to such insurer's claims handling operations. As used in this section, the term "claims handling operations" includes but is not limited to the establishment of a base of operations by an insurer within the disaster area and the investigation and handling of claims by personnel authorized by any such insurer. Nothing herein shall prohibit a political subdivision from performing any safety inspection authorized by local ordinance of the premises of the insurer's base of operations within the disaster area.

**375.916. RETALIATORY TAX, HOW ASSESSED AND PAID, EXCEPTIONS — WORKERS' COMPENSATION PAID LOSSES, HOW TREATED.** — 1. When by the laws of any other state or foreign country any premium or income or other taxes, or any fees, fines, penalties, licenses, deposit requirements or other obligations, prohibitions or restrictions are imposed upon Missouri insurance companies or carriers doing business, or that might seek to do business, in the other state or country, which in the aggregate are in excess of the taxes, fees, fines, penalties, licenses, deposit

requirements or other obligations, prohibitions or restrictions directly imposed upon insurance companies of the other state or foreign country under the statutes of this state, so long as the laws continue in force, the same obligations, prohibitions, and restrictions of whatever kind shall be imposed upon insurance companies or carriers of the other state or foreign country doing business in Missouri. Any tax, license or other obligation imposed by any city, county or other political subdivision of a state or foreign country on Missouri insurance companies or carriers shall be deemed to be imposed by the state or foreign country within the meaning of this section, and the director of the department of insurance, financial institutions and professional registration for the purpose of this section shall compute the burden of the tax, license or other obligations on an aggregate statewide or foreign-countrywide basis as an addition to the tax and other charges payable by similar Missouri insurance companies or carriers in the state or foreign country. The provisions of this section shall not apply to ad valorem taxes on real or personal property, personal income taxes or to assessments on or credits to insurers for the payment of claims of policyholders of insolvent insurers. **An insurance company claiming a state premium tax credit or deduction shall not be required to pay any additional retaliatory tax levied pursuant to this section as a result of claiming such credit or deduction.**

2. All licenses, fees, taxes, fines or penalties collectible under this section shall be paid to the director of revenue. The payment and assessment of retaliatory tax shall be made on an estimated quarterly basis in the same manner as premium insurance tax as provided in sections 148.310 to 148.461.

3. **Effective January 1, 2012, notwithstanding any other provision of law to the contrary, operating assessments based upon workers compensation paid losses that are imposed upon an insurance company by the laws of its state or foreign country of domicile shall not be considered any premium or income or other taxes or any fees, fines, penalties, licenses, deposit requirements or other obligations, prohibitions or restrictions, provided that with respect to the tax year in question the insurance company has its principal place of business within this state and receives more than three million dollars of direct insurance premiums on account of business done in this state.**

**379.1500. DEFINITIONS.** — As used in sections 379.1500 to 379.1550, the following terms shall mean:

(1) "Director", the director of the department of insurance, financial institutions and professional registration;

(2) "Insurance company" or "insurer", any person, reciprocal exchange, interinsurer, or any other legal entity licensed and authorized by the director to write inland marine coverage;

(3) "Insurance producer" or "producer", a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance;

(4) "License", the same meaning as such term is defined in section 375.012;

(5) "Location", any physical location in this state or any website, call center site, or similar location directed to residents of this state;

(6) "Person", an individual or business entity;

(7) "Portable electronics", electronic devices that are portable in nature, their accessories, and services related to the use of the device. Portable electronics does not include telecommunication and cellular equipment used by a telecommunication company to provide telecommunication service to consumers;

(8) "Portable electronics insurance", an insurance policy issued by an insurer which may be offered on a month-to-month or other periodic basis as a group or master commercial inland marine policy issued to a vendor of portable electronics under which individual customers may elect to enroll for coverage for the repair or replacement of portable electronics which may cover portable electronics against any one or more of the



following causes of loss: loss, theft, mechanical failure, malfunction, damage, or other applicable perils, but does not include:

- (a) A service contract governed by sections 385.300 to 385.321;
- (b) A policy of insurance covering a seller's or manufacturer's obligations under a warranty; or
- (c) A homeowner's, renter's, private passenger automobile, commercial multiperil, similar policy, or endorsement to such policy that covers any portable electronics;
- (9) "Portable electronics insurance license", a license to sell or solicit portable electronics insurance;
- (10) "Portable electronics transaction", the sale or lease of portable electronics by a vendor to a customer or the sale of a service related to the use of portable electronics by a vendor to a customer;
- (11) "Negotiate", the same meaning as such term is defined in section 375.012;
- (12) "Sell", the same meaning as such term is defined in section 375.012;
- (13) "Solicit", the same meaning as such term is defined in section 375.012;
- (14) "Supervising business entity", the insurer or a licensed business entity producer designated by the insurer to supervise the actions of a vendor;
- (15) "Vendor", a person in the business of engaging in portable electronics transactions directly or indirectly.

**379.1505. VENDOR LICENSE REQUIRED — APPLICATION, FEE — TERMINATION DATE.**

— 1. No vendor shall sell or solicit portable electronics insurance coverage in this state unless such vendor has obtained a portable electronics insurance license.

2. A vendor applying for a portable electronics insurance license shall make application to the director on the prescribed form as required. On the prescribed form, the vendor shall be required to provide the name for an employee or officer of the vendor that is designated by the vendor as the person responsible for the vendor's compliance with the requirements of this section and such designated responsible person shall not be required to hold an insurance producer license. Such license shall authorize an employee or authorized representative of a vendor to sell or offer coverage under a policy of portable electronics insurance to a customer at each location at which the vendor engages in a portable electronics transaction.

3. Any vendor licensed under sections 379.1500 to 379.1550 shall pay an initial license fee to the director in an amount prescribed by the director by rule, but not to exceed one thousand dollars, and shall pay a renewal fee in an amount prescribed by the director by rule, but not to exceed five hundred dollars. License fees shall be deposited in the insurance dedicated fund.

4. Notwithstanding any provision of sections 375.012 to 375.018, a portable electronics insurance license, if not renewed by the director by its expiration date, shall terminate on its expiration date and shall not after such date authorize its holder to sell or solicit any portable electronics insurance under sections 379.1500 to 379.1550.

**379.1510. AUTHORIZATION TO SELL, VENDOR RESPONSIBILITIES — ELIGIBILITY AND UNDERWRITING STANDARDS — SUPERVISING BUSINESS ENTITY TO BE APPOINTED, PURPOSE — TRAINING REQUIREMENTS — COLLECTION OF CHARGES. — 1.** A vendor shall have the obligation to ensure that every location that is authorized to sell, solicit, or negotiate portable electronics insurance to customers shall have specific brochures and actual policies or certificates of coverage available to prospective customers which:

(1) Disclose that portable electronics insurance may provide a duplication of coverage already provided by a customer's homeowner's, renter's, or other source of coverage, and

that the portable electronics insurance coverage is primary over any other collateral coverage;

(2) State that the enrollment by the customer in a portable electronics insurance program is not required in order to purchase or lease portable electronics or services;

(3) Summarize the material terms of the insurance coverage, including:

(a) The identity of the insurer;

(b) The identity of the supervising business entity;

(c) The amount of any applicable deductible and how it is to be paid;

(d) Benefits of the coverage; and

(e) Key terms and conditions of coverage, such as whether portable electronics may be repaired or replaced with similar make and model reconditioned or nonoriginal manufacturer parts or equipment;

(4) Summarize the process for filing a claim, including any requirement to return portable electronics and the maximum fee applicable in the event the customer fails to comply with any equipment return requirements; and

(5) State that the customer may cancel enrollment for coverage under a portable electronics insurance policy at any time and receive a refund of any unearned premium on a pro rata basis.

2. Eligibility and underwriting standards for customers electing to enroll in coverage shall be established for each portable electronics insurance program. Each insurer shall maintain all eligibility and underwriting records for a period of five years. Portable electronics insurance issued under sections 379.1500 to 379.1550 shall be deemed primary coverage over any other collateral coverage.

3. Insurers offering portable electronics insurance coverage through vendors shall appoint a supervising business entity to supervise the administration of the program. The supervising business entity shall be responsible for the development of a training program for employees and authorized representatives of a vendor, and shall include basic instruction about the portable electronics insurance offered to customers and the disclosures required under this section.

4. Insurers and applicable supervising business entities offering portable electronics insurance shall share all complaint, grievance, or inquiries regarding any conduct that is specific to a vendor and that may not comply with applicable state laws and regulations.

5. A supervising business entity shall maintain a registry of vendor locations which are authorized to sell or solicit portable electronics insurance coverage in this state. Upon request by the director and with ten days' notice to the supervising business entity, the registry shall be open to inspection and examination by the director during regular business hours of the supervising business entity.

6. Within thirty days of a supervising business entity terminating a vendor location's appointment to sell or solicit portable electronics insurance, the supervising business entity shall update the registry with the effective date of termination. If a supervising business entity has possession of information relating to any cause for discipline under section 375.141, the supervising business entity shall notify the director of such information in writing. The privileges and immunities applicable to insurers under section 375.022 shall apply to supervising business entities for any information reported under this subsection.

7. The supervising business entity shall not charge a fee for adding or removing a vendor location from the registry.

8. No employee or authorized representative of a vendor shall advertise, represent, or otherwise hold himself or herself out as an insurance producer, unless such employee or authorized representative is otherwise licensed as an insurance producer.

9. The training required in subsection 3 of this section shall be delivered to all employees and authorized representatives of the vendors who are directly engaged in the

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activity of selling portable electronics insurance in this state. The training may be provided in electronic form. However, if conducted in an electronic form, the supervising business entity shall implement a supplemental education program regarding the portable electronics insurance product that is conducted and overseen by licensed employees of the supervising business entity.

10. The charges for portable electronics insurance coverage may be billed and collected by the vendor. Any charge to the customer that is not included in the cost associated with the purchase or lease of portable electronics or related services shall be separately itemized on the customer's bill. If the portable electronics insurance is included in the purchase or lease of portable electronics or related services, the vendor shall clearly and conspicuously disclose to the customer that the portable electronics insurance coverage is included with the portable electronics or related services. Vendors billing and collecting such charges shall not be required to maintain such funds in a segregated account, provided that the insurer authorized the vendor to hold such funds in an alternative manner and remits such amounts to the supervising business entity within forty-five days of receipt. All funds received by a vendor from a customer for the sale of portable electronics insurance shall be considered funds held in trust by the vendor in a fiduciary capacity for the benefit of the insurer. Vendors shall maintain all records related to the purchase of portable electronics insurance for a period of three years from the date of purchase.

**379.1515. INSURANCE PRODUCERS ACT, APPLICABILITY OF.** — Persons licensed as vendors shall be subject to the provisions of sections 375.012 to 375.014, 375.018, 375.031, 375.046, 375.051, 375.052, 375.071, 375.106, 375.116, 375.141, and 375.144 of the insurance producers act.

**379.1520. SANCTIONING OF LICENSE, WHEN — PENALTIES, WHEN.** — 1. The director may suspend, revoke, refuse to issue, or refuse to renew any license or renew any license required by the provisions of sections 379.1500 to 379.1550 for any reason listed in section 375.141 or for any one or more of the following causes:

- (1) Use of any advertisement or solicitation that is false, misleading, or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;
- (2) Obtaining or attempting to obtain any fee, charge, tuition, or other compensation by fraud, deception, or misrepresentation;
- (3) Violation of any professional trust or confidence.

2. The director may impose other penalties that the director deems necessary and reasonable to carry out the purposes of sections 379.1500 to 379.1550, including:

- (1) Suspending the privilege of transacting portable electronics insurance under sections 379.1500 to 379.1550 at specific locations where violations have occurred; and
- (2) Suspending or revoking the ability of individual employees or authorized representatives to act under the license.

**379.1525. VENDOR INVESTIGATION AND EXAMINATION REQUIREMENTS.** — Vendors shall be subject to the investigation and examination provisions of section 374.190.

**379.1530. PREMIUMS, RECEIVED BY INSURER, WHEN — PROOF OF PURCHASE, INSURER MAY REQUIRE.** — Premiums received by a vendor or supervising business entity shall be deemed received by the insurer. Insurers may require consumers to provide proof of purchase.

**379.1535. VIOLATIONS, DIRECTOR'S AUTHORITY.** — If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice, or course of business constituting a violation of sections 379.1500 to 379.1550 or rule adopted or order issued thereunder, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 379.1500 to 379.1550, or a rule adopted or order issued thereunder, the director may:

- (1) Issue such administrative orders as authorized under section 374.046; or
- (2) Maintain a civil action for relief authorized under section 374.048.

A violation of sections 379.1500 to 379.1550 or rule adopted or order issued thereunder is a level two violation under section 374.049.

**379.1540. SUPERVISING BUSINESS ENTITY, SANCTIONING OF LICENSE, WHEN.** — The license of a supervising business entity may be suspended, revoked, renewal refused, or an application refused if the director finds that a violation by a portable electronics insurance vendor was known or should have been known by the supervising business entity and the violation was neither reported to the director nor correction action taken. A violation of this section is a level three violation under section 374.049.

**379.1545. INSURERS, PERMISSIBLE ACTS.** — Notwithstanding any other provision of law:

(1) An insurer may terminate or otherwise change the terms and conditions of a policy of portable electronics insurance only upon providing the policyholder and enrolled customers with at least thirty days' notice;

(2) If the insurer changes the terms and conditions of a policy of portable electronics insurance, the insurer shall provide the vendor and any policyholders with a revised policy or endorsement and each enrolled customer with a revised certificate, endorsement, updated brochure, or other evidence indicating a change in the terms and conditions has occurred and a summary of material changes;

(3) Notwithstanding subdivision (1) of this section, an insurer may terminate an enrolled customer's enrollment under a portable electronics insurance policy upon fifteen days' notice for discovery of fraud or material misrepresentation in obtaining coverage or in the presentation of a claim thereunder;

(4) Notwithstanding subdivision (1) of this section, an insurer may immediately terminate an enrolled customer's enrollment under a portable electronics insurance policy:

(a) For nonpayment of premium;

(b) If the enrolled customer ceases to have an active service with the vendor of portable electronics; or

(c) If an enrolled customer exhausts the aggregate limit of liability, if any, under the terms of the portable electronics insurance policy and the insurer sends notice of termination to the customer within thirty calendar days after exhaustion of the limit. However, if the notice is not timely sent, enrollment and coverage shall continue notwithstanding the aggregate limit of liability until the insurer sends notice of termination to the enrolled customer;

(5) Where a portable electronics insurance policy is terminated by a policyholder, the policyholder shall mail or deliver written notice to each enrolled customer advising the customer of the termination of the policy and the effective date of termination. The written notice shall be mailed or delivered to the customer at least thirty days prior to the termination;

(6) Whenever notice is required under this section, it shall be in writing and may be mailed or delivered to the vendor at the vendor's mailing address and to its affected

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enrolled customers' last known mailing addresses on file with the insurer. If notice is mailed, the insurer or vendor, as the case may be, shall maintain proof of mailing in a form authorized or accepted by the U.S. Postal Service or other commercial mail delivery service. Alternatively, an insurer or vendor policyholder may comply with any notice required by this section by providing electronic notice to a vendor or its affected enrolled customers, as the case may be, by electronic means. Additionally, if an insurer or vendor policyholder provides electronic notice to an affected enrolled customer and such delivery by electronic means is not available or is undeliverable, the insurer or vendor policyholder shall provide written notice to the enrolled customer by mail in accordance with this section. If notice is accomplished through electronic means, the insurer or vendor of portable electronics, as the case may be, shall maintain proof that the notice was sent.

**379.1550. RULEMAKING AUTHORITY — EFFECTIVE DATE. — 1.** The director may promulgate rules to implement the provisions of sections 379.1500 to 379.1550. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in sections 379.1500 to 379.1550 shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. Sections 379.1500 to 379.1550 and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2011, shall be invalid and void.

**2.** The provisions of sections 379.1500 to 379.1550 shall become effective January 1, 2012.

**384.015. DEFINITIONS. —** As used in sections 384.011 to 384.071, the following terms shall mean:

- (1) "Admitted insurer" [means], an insurer licensed to do an insurance business in this state;
- (2) "Capital" [means], funds paid in for stock or other evidence of ownership;
- (3) "Director" [means], the director of the department of insurance, financial institutions and professional registration;
- (4) "Eligible surplus lines insurer" [means], a nonadmitted insurer with which a surplus lines licensee may place surplus lines insurance;
- (5) "Exempt commercial purchaser", any person purchasing commercial insurance that, at the time of placement, meets the following requirements:
  - (a) The person employs or retains a qualified risk manager to negotiate insurance coverage;
  - (b) The person has paid aggregate nationwide commercial property and casualty insurance premiums in excess of one hundred thousand dollars in the immediately preceding twelve months; and
  - (c) a. The person meets at least one of the following criteria:
    - i. The person possesses a net worth in excess of twenty million dollars, as such amount is adjusted under subparagraph b. of this paragraph;
    - ii. The person generates annual revenues in excess of fifty million dollars, as such amount is adjusted under subparagraph b. of this paragraph;
    - iii. The person employs more than five hundred full-time or full-time equivalent employees per individual insured or is a member of an affiliated group employing more than one thousand employees in the aggregate;

iv. The person is a not-for-profit organization or public entity generating annual budgeted expenditures of at least thirty million dollars, as such amount is adjusted under subparagraph b. of this paragraph; or

v. The person is a municipality with a population in excess of fifty thousand persons.

b. Effective on the fifth January first occurring after the date of the enactment of United States Public Law 111-203 and each fifth January first occurring thereafter, the amounts in items i, ii, and iv of subparagraph a. of this paragraph shall be adjusted to reflect the percentage change for such five-year period in the consumer price index for all urban consumers published by the United States Bureau of Labor Statistic of the Department of Labor;

(6) "Export" [means], to place surplus lines insurance with a nonadmitted insurer;

(7) "Home state":

(a) Except as provided in paragraph (b) of this subdivision, the term "home state" means, with respect to an insured:

a. The state in which an insured maintains its principal place of business or, in the case of an individual, the individual's principal residence; or

b. If one hundred percent of the insured risk is located out of the state referred to in subparagraph a. of this paragraph, the state to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated;

(b) If more than one insured from an affiliated group are named insureds on a single nonadmitted insurance contract, the term "home state" means the home state, as determined under paragraph (a) of this subdivision, of the member of the affiliated group that has the largest percentage of premium attributed to it under such insurance contract;

(c) The principal place of business is the state where the insured maintains its headquarters and where the insured's high-level officers direct, control and coordinate the business activities of the insured;

[(6)] (8) "Kind of insurance" [means], one of the types of insurance required to be reported in the annual statement which must be filed with the director by admitted insurers;

(9) "Nonadmitted insurance", any property and casualty insurance permitted to be placed directly or through a surplus lines licensee with a nonadmitted insurer eligible to accept such insurance;

[(7)] (10) "Nonadmitted insurer" [means], an insurer not licensed to do an insurance business in this state, including insurance exchanges authorized under the laws of other states;

[(8)] (11) "Producing broker" [means], the individual broker or agent dealing directly with the party seeking insurance;

(12) "Qualified risk manager", shall have the same meaning prescribed in the Nonadmitted and Reinsurance Reform Act of 2010 (15 U.S.C. Section 8206);

[(9)] (13) "Surplus" [means], funds over and above liabilities and capital of the company for the protection of policyholders;

[(10)] (14) "Surplus lines insurance" [means], any insurance of risks resident, located or to be performed in this state, permitted to be placed through a surplus lines licensee with a nonadmitted insurer eligible to accept such insurance, other than reinsurance, [wet marine and transportation insurance independently procured,] and life and health insurance and annuities;

[(11)] (15) "Surplus lines licensee" [means], a person licensed to place insurance on risks resident, located or to be performed in this state with nonadmitted insurers eligible to accept such insurance;

[(12)] (16) "Wet marine and transportation insurance" [means]:

(a) Insurance upon vessels, crafts, hulls and of interests therein or with relation thereto;

(b) Insurance of marine builder's risks, marine war risks and contracts of marine protection and indemnity insurance;

(c) Insurance of freights and disbursements pertaining to a subject of insurance coming within this section; and

(d) Insurance of personal property and interests therein, in the course of exportation from or importation into any country, or in the course of transportation coastwise or on inland waters, including transportation by land, water or air from point of origin to final destination, in connection with any and all risks or periods of navigation, transit or transportation, and while being prepared for and while awaiting shipment, and during any delays, transshipment, or reshipment incident thereto.

**384.017. NONADMITTED INSURERS, PURCHASES FROM ALLOWED, WHEN. — Surplus lines** insurance may be [procured through] **placed by** a surplus lines licensee [from nonadmitted insurers] if:

(1) Each insurer is an eligible surplus lines insurer;

(2) **Each insurer is authorized to write the type of insurance in its domiciliary jurisdiction;**

(3) The full amount or kind of insurance is not obtainable from admitted insurers who are actually transacting in this state the class of insurance required by the insured. Insurance shall be deemed "obtainable" within the meaning of this section if there is available a market with admitted insurers that can supply the insured's requirements both as to type of coverage and as to quality of service. "Type of coverage", as used in this section, refers to hazards covered and limits of coverage. "Quality of security and service", as used in this section, refers to the rating by a recognized financial service; and

[(3)] (4) All other requirements of sections 384.011 to 384.071 are met.

**384.021. NONADMITTED INSURERS, LIMITATION ON FURNISHING COVERAGE — EXEMPT COMMERCIAL PURCHASER, LICENSEE EXEMPTIONS. — [No] 1. A surplus lines licensee shall not place [any] coverage with a nonadmitted insurer, unless, at the time of placement, [such nonadmitted insurer] the surplus lines licensee has determined that the nonadmitted insurer:**

(1) [Has established satisfactory evidence of good repute and financial integrity;

(2) Qualified under one of the following paragraphs:

(a)] Has capital and surplus or its equivalent under the laws of its domiciliary jurisdiction, which equals [this state's] **the greater of the** minimum capital and surplus requirements under the laws of this state [as defined in sections 379.010 and 379.080; or

(b) In the case of Lloyd's or other similar groups including incorporated and individual unincorporated underwriters, the incorporated members of which shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members, maintains a trust fund of not less than fifty million dollars as security to the full amount thereof for all policyholders and creditors in the United States of each member of the group, and such trust shall likewise comply with the terms and conditions established in subdivision (1) of this section for alien insurers; and

(c) In the case of an "insurance exchange" created by the laws of individual states, maintain capital and surplus, or the substantial equivalent thereof, of not less than fifteen million dollars in the aggregate. For insurance exchanges which maintain funds for the protection of all insurance exchange policyholders, each individual syndicate shall maintain minimum capital and surplus, or the substantial equivalent thereof, of not less than one million five hundred thousand dollars. In the event the insurance exchange does not maintain funds for the protection of all insurance exchange policyholders, each individual syndicate shall meet the minimum capital and surplus requirements of paragraph (a) of this subdivision;

(3) Has caused to be provided to the director a copy of its current annual statement certified by such insurer, such statement to be provided no more than six months after the close of the period reported upon and which is either:

(a) Filed with and approved by the regulatory authority in the domicile of the nonadmitted insurer; or

(b) Certified by an accounting or auditing firm licensed in the jurisdiction of the insurer's domicile; or

(c) In the case of an insurance exchange, the statement may be an aggregate combined statement of all underwriting syndicates operating during the period reported;

(4) In addition to meeting the requirements in subdivisions (1) to (3) of this section, an insurer shall be an eligible surplus lines insurer if it] **or fifteen million dollars, except that the requirements of this subdivision may be satisfied by an insurer's possessing less than the minimum capital and surplus upon an affirmative finding of acceptability by the director provided that the finding shall be based upon such factors as quality of management, capital and surplus of any parent company, company underwriting profit and investment income trends, market availability and company record and reputation within the industry, and in no event shall the director make an affirmative finding of acceptability when the nonadmitted insurer's capital and surplus is less than four million five hundred thousand dollars; and**

(2) Appears on the most recent list of eligible surplus lines insurers published by the director from time to time but at least semiannually[. The director shall be required to place and maintain the name of any nonadmitted insurer which is eligible and which makes a request to be on the list of eligible surplus lines insurers] **or on the most recent quarterly listing of alien insurers maintained by the international insurers department of the National Association of Insurance Commissioners.**

**2. Notwithstanding any other provision of this chapter or rules adopted to implement the provisions of this chapter, a surplus lines licensee seeking to procure or place nonadmitted insurance in Missouri for an exempt commercial purchaser shall not be required to satisfy any requirement to make a due diligence search to determine whether the full amount or type of insurance sought by such exempt commercial purchaser can be obtained from nonadmitted insurers if:**

**(1) The surplus lines licensee procuring or placing the surplus lines insurance has disclosed to the exempt commercial purchaser that such insurance may or may not be available from the admitted market that may provide greater protection with more regulatory oversight; and**

**(2) The exempt commercial purchaser has subsequently requested in writing the surplus lines licensee to procure or place such insurance from a nonadmitted insurer.**

**384.043. LICENSING REQUIREMENTS FOR INSURANCE PRODUCERS, FEE — EXAMINATION, EXCEPTION — RENEWAL, WHEN, VIOLATION, EFFECT — NATIONAL DATABASE, PARTICIPATION IN. — 1.** No insurance producer shall procure any contract of surplus lines insurance with any nonadmitted insurer, unless he possesses a current surplus lines insurance license issued by the director.

**2.** The director shall issue a surplus lines license to any qualified holder of a current resident or nonresident property and casualty insurance producer license but only when the licensee has:

(1) Remitted the one hundred dollar initial fee to the director;

(2) Submitted a completed license application on a form supplied by the director; and

(3) Passed a qualifying examination approved by the director, except that all holders of a license prior to July 1, 1987, shall be deemed to have passed such an examination.



3. Each surplus lines license shall be renewed for a term of two years on the biennial anniversary date of issuance and continue in effect until refused, revoked or suspended by the director in accordance with section 384.065; except that if the biennial renewal fee for the license is not paid on or before the anniversary date, the license terminates. The biennial renewal fee is one hundred dollars.

4. **Beginning on or before July 1, 2012, the director shall participate in the national insurance producer database of the National Association of Insurance Commissioners, or any other equivalent uniform national database, for the licensure of surplus lines licensees and the renewal of such licenses.**

5. **Notwithstanding any other provision of this chapter, a person selling, soliciting, or negotiating nonadmitted insurance with respect to an insured shall be required to obtain or possess a current surplus lines insurance license issued by the director only if this state is such insured's home state.**

**384.051. INSURED TO FILE REPORT ON SURPLUS LINES INSURANCE NOT OBTAINED THROUGH A BROKER — CONTENTS, WHEN DUE — TAX IMPOSED, PROCEDURE TO COLLECT TAX.** — 1. Every insured [in] **whose home state is** this state who procures or causes to be procured or continues or renews insurance in any surplus lines insurer, or any self-insurer [in] **whose home state is** this state who so procures or continues with, any surplus lines insurer, excess of loss, catastrophe or other insurance, [upon a subject of insurance resident, located or to be performed within this state,] other than insurance procured through a surplus lines broker pursuant to sections 384.011 to 384.071, shall before March second of the year next succeeding the year in which the insurance was so procured, continued or renewed, file a written report of the same with the director on forms prescribed by the director and furnished to such an insured upon request. The report shall show:

- (1) The name and address of the insured or insureds;
- (2) The name and address of the insurer or insurers;
- (3) The subject of the insurance;
- (4) A general description of the coverage;
- (5) The amount of premium currently charged therefor;
- (6) Such additional pertinent information as may be reasonably requested by the director.

2. [If any such insurance covers also a subject of insurance resident, located or to be performed outside this state, for the purposes of this section, a proper pro rata portion of the entire premium payable for all such insurance shall be allocated as to the subjects of insurance resident, located or to be performed in this state.

3. Any insurance in a surplus lines insurer procured through negotiations or an application in whole or in part occurring or made within or from within this state, or for which premiums in whole or in part are remitted directly or indirectly from within this state, shall be deemed to be insurance procured or continued or renewed in this state within the intent of subsection 1 of this section.

4.] For the general support of the government of this state there is levied upon the insured or self-insurer who procures insurance pursuant to [subsections 1 and 3] **subsection 1** of this section a tax at the rate of five percent of the [net] **gross** amount of the premium [in respect of risks located in this state]. Before April sixteenth of the year next succeeding the year in which the insurance was so procured, continued or renewed, the insured shall remit to the department of revenue the amount of the tax. The department of revenue shall notify the director of the sums collected from each insured or self-insurer.

**384.057. LICENSEE TO FILE ANNUAL STATEMENT, CONTENTS — REPORT TO DIRECTOR, CONTENTS.** — 1. Before March second of each year, each surplus lines broker shall report under oath to the director on forms prescribed by him or her a statement showing, with respect to the year

ending the immediately preceding December thirty-first **for nonadmitted insurance where the home state of the insured is this state:**

(1) The gross amounts charged for surplus lines insurance [with respect to risks located within this state], exclusive of sums collected for the payment of federal, state or local taxes;

(2) The amount of net premiums with respect to the insurance. For the purpose of this section, "net premiums" means the gross amount of charges for surplus lines insurance [with respect to risks located within this state], exclusive of sums collected for the payment of federal, state and local taxes, less returned premiums.

2. No later than within forty-five days after the end of each calendar quarter ending March thirty-first, June thirtieth, September thirtieth, and December thirty-first each surplus lines broker shall report under oath to the director on forms prescribed by him or her a statement showing, with respect to each respective calendar quarter **for nonadmitted insurance where the home state of the insured is this state:**

(1) The gross amounts charged for surplus lines insurance [with respect to risks located within this state], exclusive of sums collected for the payment of federal, state, or local taxes;

(2) The amount of net premiums with respect to the insurance. For the purpose of this section, "net premiums" means the gross amount of charges for surplus lines insurance [with respect to risks located within this state], exclusive of sums collected for the payment of federal, state, and local taxes, less returned premiums.

**384.061. PREMIUM TAX TO BE LEVIED ONLY ON ENTIRE GROSS PREMIUM FOR NONADMITTED OR SURPLUS LINES INSURANCE POLICIES. — 1. Notwithstanding any other provision of this chapter or regulation implementing a provision of this chapter,** the five percent tax on net premiums imposed by sections 384.051 and 384.059 shall be levied **upon and only upon** [risks or portions of risks which are located within this state. If a surplus lines policy covers risks only partially located in this state, the tax payable shall be computed on the portions of the premium properly allocable to that portion of the risks located in this state and no Missouri tax shall be charged for that portion of risk which is located outside of the state of Missouri] **the entire gross premium for nonadmitted or surplus lines insurance policies for which the home state of the insured is Missouri.**

**2. Notwithstanding any other provision of this chapter or regulation implementing a provision of this chapter:**

(1) **The placement of nonadmitted insurance shall be subject to the statutory and regulatory requirements of this chapter only if this state is the insured's home state; and**

(2) **A surplus lines broker is required to be licensed as a surplus lines licensee under the provisions of this chapter only if this state is the insured's home state.**

**385.200. DEFINITIONS. —** As used in sections 385.200 to 385.220, the following terms mean:

(1) "Administrator", the person other than a provider who is responsible for the administration of the service contracts or the service contracts plan or for any filings required by sections 385.200 to 385.220;

(2) **"Business entity", any partnership, corporation, incorporated or unincorporated association, limited liability company, limited liability partnership, joint stock company, reciprocal, syndicate, or any similar entity;**

(3) "Consumer", a natural person who buys other than for purposes of resale any tangible personal property that is distributed in commerce and that is normally used for personal, family, or household purposes and not for business or research purposes;

[(3)] (4) "Dealers", any motor vehicle dealer or boat dealer licensed or required to be licensed under the provisions of sections 301.550 to 301.573;

[(4)] (5) "Director", the director of the department of insurance, financial institutions and professional registration;

[(5)] (6) "Maintenance agreement", a contract of limited duration that provides for scheduled maintenance only;

[(6)] (7) "Manufacturer", any of the following:

(a) A person who manufactures or produces the property and sells the property under the person's own name or label;

(b) A subsidiary of the person who manufactures or produces the property;

(c) A person who owns one hundred percent of the entity that manufactures or produces the property;

(d) A person that does not manufacture or produce the property, but the property is sold under its trade name label;

(e) A person who manufactures or produces the property and the property is sold under the trade name or label of another person;

(f) A person who does not manufacture or produce the property but, under a written contract, licenses the use of its trade name or label to another person who sells the property under the licensor's trade name or label;

[(7)] (8) "Mechanical breakdown insurance", a policy, contract, or agreement issued by an authorized insurer who provides for the repair, replacement, or maintenance of a motor vehicle or indemnification for repair, replacement, or service, for the operational or structural failure of a motor vehicle due to a defect in materials or workmanship or to normal wear and tear;

[(8)] (9) "Motor vehicle extended service contract" or "service contract", a contract or agreement for a separately stated consideration and for a specific duration to perform the repair, replacement, or maintenance of a motor vehicle or indemnification for repair, replacement, or maintenance, for the operational or structural failure due to a defect in materials, workmanship, or normal wear and tear, with or without additional provision for incidental payment of indemnity under limited circumstances, including but not limited to towing, rental, and emergency road service, but does not include mechanical breakdown insurance or maintenance agreements;

[(9)] (10) "Nonoriginal manufacturer's parts", replacement parts not made for or by the original manufacturer of the property, commonly referred to as after-market parts;

[(10)] (11) "Person", an individual, partnership, corporation, incorporated or unincorporated association, joint stock company, reciprocal, syndicate, or any similar entity or combination of entities acting in concert;

[(11)] (12) "Premium", the consideration paid to an insurer for a reimbursement insurance policy;

[(12)] (13) **"Producer", any business entity or individual person selling, offering, negotiating, or soliciting a motor vehicle extended service contract and required to be licensed as a producer under subsection 1 of section 385.206;**

(14) "Provider", a person who is contractually obligated to the service contract holder under the terms of a motor vehicle extended service contract;

[(13)] (15) "Provider fee", the consideration paid for a motor vehicle extended service contract by a service contract holder;

[(14)] (16) "Reimbursement insurance policy", a policy of insurance issued to a provider and under which the insurer agrees, for the benefit of the motor vehicle extended service contract holders, to discharge all of the obligations and liabilities of the provider under the terms of the motor vehicle extended service contracts in the event of nonperformance by the provider. All obligations and liabilities include, but are not limited to, failure of the provider to perform under the motor vehicle extended service contract and the return of the unearned provider fee in the event of the provider's unwillingness or inability to reimburse the unearned provider fee in the event of termination of a motor vehicle extended service contract;

[(15)] (17) "Service contract holder" or "contract holder", a person who is the purchaser or holder of a motor vehicle extended service contract;

[(16)] (18) "Warranty", a warranty made solely by the manufacturer, importer, or seller of property or services without charge, that is not negotiated or separated from the sale of the product and is incidental to the sale of the product, that guarantees indemnity for defective parts, mechanical or electrical breakdown, labor, or other remedial measures, such as repair or replacement of the property or repetition of services.

**385.205. DELIVERY WITHIN COMMERCIALLY FEASIBLE TIME PERIOD — COPY OF CONTRACT TO BE DELIVERED TO CONSUMER, WHEN — VIOLATION, PENALTY. — 1. It is unlawful for any provider that has authorized a motor vehicle extended service contract with a consumer to fail to cause delivery to the consumer of a fully executed motor vehicle extended service contract within a commercially feasible time period, but no more than forty-five days from the date the consumer's initial payment is processed. It is the mailing, or actual delivery of the fully executed contract, whichever is earlier, that commences the free look period under subsection 14 of section 385.206.**

**2. It is unlawful for any provider, administrator, producer, or any other person who offers to a consumer a motor vehicle extended service contract, to fail, upon request, to cause delivery to the consumer of an unsigned copy of the written contract prior to the time the consumer's initial payment is processed. An offeror may comply with this provision by providing the consumer with the copy or by directing the consumer to a website containing an unsigned copy of the service contract.**

**3. A violation of this section is a level two violation under section 374.049.**

**385.206. SALE OF CONTRACTS, PROHIBITED ACTS — DEALERS NOT TO BE USED AS FRONTING COMPANIES — REQUIRED CONTRACT CONTENTS — VIOLATIONS, PENALTY. — 1. [No person shall directly] It is unlawful for any person in or from this state to sell, offer [for sale], negotiate, or solicit [the sale of] a motor vehicle extended service contract [to] with a consumer, other than the following:**

**(1) A motor vehicle dealer licensed under sections 301.550 to 301.573, along with its authorized employees offering the service contract in connection with the sale of either a motor vehicle or vehicle maintenance or repair services;**

**(2) A manufacturer of motor vehicles, as defined in section 301.010, along with its authorized employees;**

**(3) A federally insured depository institution, along with its authorized employees;**

**(4) A lender licensed and defined under sections 367.100 to 367.215, along with its authorized employees; [or]**

**(5) [An administrator, provider, manufacturer, or person working in concert with an administrator, provider, or manufacturer marketing or selling a motor vehicle extended service contract demonstrating] A provider registered with the director and having demonstrated financial responsibility as [set forth] required in section 385.202, along with its subsidiaries and affiliated entities, and authorized employees of the provider, subsidiary, or affiliated entity;**

**(6) A business entity producer or individual producer licensed under section 385.207;**

**(7) Authorized employees of an administrator under contract to effect coverage, collect provider fees, and settle claims on behalf of a registered provider, if the administrator is licensed as a business entity producer under section 385.207; or**

**(8) A vehicle owner transferring an existing motor vehicle extended service contract to a subsequent owner of the same vehicle.**

**2. No administrator or provider shall use a dealer as a fronting company, and no dealer shall act as a fronting company. For purposes of this subsection, "fronting company" means a dealer that**

authorizes a third-party administrator or provider to use its name or business to evade or circumvent the provisions of subsection 1 of this section.

3. Motor vehicle extended service contracts issued, sold, or offered [for sale] in this state shall be written in clear, understandable language, and the entire contract shall be printed or typed in easy-to-read type and conspicuously disclose the requirements in this section, as applicable.

4. Motor vehicle extended service contracts insured under a reimbursement insurance policy under subsection 3 of section 385.202 shall contain a statement in substantially the following form: "Obligations of the provider under this service contract are guaranteed under a service contract reimbursement insurance policy. If the provider fails to pay or provide service on a claim within sixty days after proof of loss has been filed, the contract holder is entitled to make a claim directly against the insurance company." A claim against the provider also shall include a claim for return of the unearned provider fee. The motor vehicle extended service contract also shall state conspicuously the name and address of the insurer.

5. Motor vehicle extended service contracts not insured under a reimbursement insurance policy pursuant to subsection 3 of section 385.202 shall contain a statement in substantially the following form: "Obligations of the provider under this service contract are backed only by the full faith and credit of the provider (issuer) and are not guaranteed under a service contract reimbursement insurance policy." A claim against the provider also shall include a claim for return of the unearned provider fee. The motor vehicle extended service contract also shall state conspicuously the name and address of the provider.

6. Motor vehicle extended service contracts shall identify any administrator, the provider obligated to perform the service under the contract, the motor vehicle extended service contract seller, and the service contract holder to the extent that the name and address of the service contract holder has been furnished by the service contract holder.

7. Motor vehicle extended service contracts shall state conspicuously the total purchase price and the terms under which the motor vehicle extended service contract is sold. The purchase price is not required to be preprinted on the motor vehicle extended service contract and may be negotiated at the time of sale with the service contract holder.

8. If prior approval of repair work is required, the motor vehicle extended service contracts shall state conspicuously the procedure for obtaining prior approval and for making a claim, including a toll-free telephone number for claim service and a procedure for obtaining emergency repairs performed outside of normal business hours.

9. Motor vehicle extended service contracts shall state conspicuously the existence of any deductible amount.

10. Motor vehicle extended service contracts shall specify the merchandise and services to be provided and any limitations, exceptions, and exclusions.

11. Motor vehicle extended service contracts shall state the conditions upon which the use of nonoriginal manufacturer's parts[,] **or parts of a like kind and quality** or substitute service[,] **may** be allowed. Conditions stated shall comply with applicable state and federal laws.

12. Motor vehicle extended service contracts shall state any terms, restrictions, or conditions governing the transferability of the motor vehicle extended service contract.

13. Motor vehicle extended service contracts shall state [the] **that subsequent to the required free look period specified in subsection 14 of this section, a service contract holder may cancel the contract at any time and the provider shall refund to the contract holder one hundred percent of the unearned pro rata provider fee, less any claims paid. A reasonable administrative fee may be surcharged by the provider in an amount not to exceed fifty dollars. All terms, restrictions, or conditions governing termination of the service contract by the service contract holder shall be stated.** The provider of the motor vehicle extended service contract shall mail a written notice to the contract holder within [fifteen] **forty-five** days

of the date of termination. **The written notice required by this subsection may be included with any other correspondence required by this section.**

14. Motor vehicle extended service contracts shall [require] **contain a free look period that requires every provider to permit the service contract holder to return the contract to the provider within at least twenty business days of the mailing date of the motor vehicle extended service contract or [within at least ten days if] the contract date if the service contract is executed and delivered at the time of sale or within a longer time period permitted under the contract. If no claim has been made under the contract and the contract is returned, the contract is void and the provider shall refund to the contract holder the full purchase price of the contract. A ten percent penalty of the amount outstanding per month shall be added to a refund that is not paid within [thirty] forty-five days of return of the contract to the provider. If a claim has been made under the contract during the free look period and the contract is returned, the provider shall refund to the contract holder the full purchase price less any claims that have been paid.** The applicable free-look time periods on service contracts shall apply only to the original service contract purchaser.

15. Motor vehicle extended service contracts shall set forth all of the obligations and duties of the service contract holder, such as the duty to protect against any further damage and the requirement for certain service and maintenance.

16. Motor vehicle extended service contracts shall state clearly whether or not the service contract provides for or excludes consequential damages or preexisting conditions.

17. **The contract requirements of subsections 3 to 16 of this section shall apply to motor vehicle extended service contracts made with consumers in this state. A violation of subsections 3 to 16 of this section is a level two violation under section 374.049.**

18. **A violation of subsection 1 or 2 of this section is a level three violation under section 374.049.**

**385.207. BUSINESS ENTITY PRODUCER AND INDIVIDUAL PRODUCER LICENSES REQUIRED — APPLICATION REQUIREMENTS — ISSUANCE, RENEWAL — RULEMAKING AUTHORITY. —**

1. A business entity, prior to selling, offering, negotiating, or soliciting a motor vehicle extended service contract with a consumer under subdivision (6) or (7) of subsection 1 of section 385.206, shall apply for and obtain licensure with the director as a business entity producer in accordance with this section.

2. A business entity applying for a producer license under sections 385.200 to 385.220 shall make application to the director on an application made available by the director and shall pay an initial and renewal licensure fee in an amount to be determined by the director, but which shall not exceed one hundred dollars for a business entity. All applications shall include the name of the business entity, the business address or addresses of the business entity, the type of ownership of the business entity and information related to section 385.209 as required by the director. If a business entity is a partnership or unincorporated association, the application shall contain the name and address of every person or corporation having a financial interest in or owning any part of the business entity. If the business entity is a corporation, the application shall contain the names and addresses of all officers and directors of the corporation. If the business entity is a limited liability company, the application shall contain the names and addresses of all members and officers of the limited liability company, and a list of all persons employed by the business entity and to whom it pays any salary or commission for the sale, solicitation, negotiation, or procurement of any motor vehicle extended service contract.

3. An individual, prior to selling, offering, negotiating, or soliciting a motor vehicle extended service contract with a consumer under subdivision (6) of subsection 1 of section

385.206, shall apply for and obtain licensure with the director as an individual producer in accordance with this section.

4. An individual applying for a producer license under section 385.200 to 385.220 shall make application to the director on an application made available by the director and shall pay an initial and renewal licensure fee in an amount to be determined by the director, but which shall not exceed twenty-five dollars for an individual producer. No examination of an applicant under this subsection shall be required.

5. Unless licensure is refused by the director under section 385.209, persons applying for license under this section shall be issued a producer license for a term of two years. A producer's license shall be renewed biennially upon application for renewal and payment of the fee. Such license shall continue in effect unless terminated under subsection 6 of this section, or refused, revoked, or suspended under section 385.209.

6. A producer license issued under this section, if not renewed by the director by its expiration date, shall terminate on its expiration date and shall not after that date authorize its holder under sections 385.200 to 385.220 to sell, offer, negotiate, or solicit motor vehicle extended service contracts.

7. In connection with a business entity's application as a producer and at renewal, the business entity shall provide a list to the director of all locations in this state at which it offers motor vehicle extended service contracts.

8. The director shall adopt rules under section 385.218 relating to licensing and practices of persons acting as a producer under this section.

**385.208. DECEPTIVE PRACTICES.** — 1. [A provider shall not] **It is unlawful for a provider, administrator, producer, or any other person selling, offering, negotiating, or soliciting a motor vehicle extended service contract to:**

(1) Use in its name the words insurance, casualty, guaranty, **warranty**, surety, mutual, or any other words descriptive of the insurance, casualty, guaranty, or surety business, nor shall such [provider] **person** use a name deceptively similar to the name or description of any insurance or surety corporation, or any other provider[. This section shall not apply to a company], **provided that this prohibition shall not apply to any provider or administrator** that was using any of the prohibited language in its name prior to [August 28, 2007. However, a company using the prohibited language in its name shall disclose] **January 1, 2011, and it discloses** conspicuously in its motor vehicle extended service contract the following statement: "This agreement is not an insurance contract.";

(2) **Directly or indirectly, represent in any manner, whether by telemarketing, broadcast marketing, electronic media, written solicitation or any other advertisement, offer, or solicitation, a false, deceptive, or misleading statement with respect to:**

(a) **An affiliation with a motor vehicle manufacturer or dealer;**

(b) **Possession of information regarding a motor vehicle owner's current motor vehicle manufacturer's original equipment warranty;**

(c) **The expiration of a motor vehicle owner's current motor vehicle manufacturer's original equipment warranty;**

(d) **A requirement that such motor vehicle owner register for a new motor vehicle extended service contract with such provider in order to maintain coverage under the motor vehicle owner's current motor vehicle extended service contract or manufacturer's original equipment warranty; or**

(e) **Any term or provision of a motor vehicle extended service contract.**

**A violation of this subsection is a level three violation under section 374.049.**

2. [A provider or its representative shall not in its motor vehicle extended service contracts or literature make, permit, or cause to be made any false or misleading statement, or deliberately

omit any material statement that would be considered misleading if omitted, in connection with the sale, offer to sell or advertisement of a motor vehicle extended service contract] **It is unlawful for any person, in connection with the offer, sale, solicitation, or negotiation of a motor vehicle extended service contract, directly or indirectly to:**

- (1) Employ any deception, device, scheme, or artifice to defraud;
  - (2) As to any material fact, make or use any misrepresentation, concealment, or suppression;
  - (3) Engage in any pattern or practice of making any false statement of material fact;
- or
- (4) Engage in any act, practice, or course of business which operates as a fraud or deceit upon any person.

**A violation of this subsection is a level three violation under section 374.049.**

3. Any person who knowingly employs, uses, or engages in any conduct in violation of subsection 2 of this section with the intent to defraud shall be guilty of a felony and, upon conviction, may be subject to imprisonment for a term not to exceed ten years. In addition to any fine or imprisonment imposed, a court may order restitution to the victim.

4. A person, such as a bank, savings and loan association, lending institution, manufacturer or seller of any product, shall not require the purchase of a service contract as a condition of a loan or a condition for the sale of any property. **A violation of this subsection is a level one violation under section 374.049.**

**385.209. LICENSURE SANCTIONING, WHEN — NOTIFICATION BY DIRECTOR, WHEN — PRODUCER TO NOTIFY DIRECTOR, WHEN. — 1.** The director may suspend, revoke, refuse to issue, or refuse to renew a registration or license under sections 385.200 to 385.220 for any of the following causes, if the applicant or licensee or the applicant's or licensee's subsidiaries or affiliated entities acting on behalf of the applicant or licensee in connection with the applicant's or licensee's motor vehicle extended service contract program has:

- (1) Filed an application for license in this state within the previous ten years, which, as of the effective date of the license, was incomplete in any material respect or contained incorrect, misleading, or untrue information;
  - (2) Violated any provision in sections 385.200 to 385.220, or violated any rule, subpoena, or order of the director;
  - (3) Obtained or attempted to obtain a license through material misrepresentation or fraud;
  - (4) Misappropriated or converted any moneys or properties received in the course of doing business;
  - (5) Been convicted of any felony;
  - (6) Used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere;
  - (7) Been found in violation of law by a court of competent jurisdiction in an action instituted by any officer of any state or the United States in any matter involving motor vehicle extended service contracts, financial services, investments, credit, insurance, banking, or finance;
  - (8) Had a producer license or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory;
  - (9) Been refused a license or had a license revoked or suspended by a state or federal regulator of service contracts, financial services, investments, credit, insurance, banking, or finance;
  - (10) Signed the name of another to an application for license or to any document related to a motor vehicle extended service contract transaction without authorization;
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- (11) Unlawfully acted as a producer without a license;
- (12) Failed to comply with an administrative or court order imposing a child support obligation;
- (13) Failed to comply with any administrative or court order directing payment of state or federal income tax; or
- (14) Has within the last fifteen years been declared insolvent by the director or a motor vehicle extended service contract regulator of another state or has been the subject of a bankruptcy petition.

2. In the event that the action by the director is not to renew or to deny an application for a license, the director shall notify the applicant or licensee in writing and advise the applicant or licensee of the reason for the denial or nonrenewal. Appeal of the nonrenewal or denial of the application for a license shall be made pursuant to the provisions of chapter 621. Notwithstanding section 621.120, the director shall retain discretion in refusing a license or renewal and such discretion shall not transfer to the administrative hearing commission.

3. The license of a business entity producer may be suspended, revoked, renewal refused, or an application may be refused if the director finds that a violation by an individual acting under the direction of the business entity was known or should have been known by one or more of the partners, officers, or managers acting on behalf of the business entity and the violation was neither reported to the director nor corrective action taken.

4. The director may also revoke or suspend under subsection 1 of this section any license issued by the director where the licensee has failed to renew or has surrendered such license.

5. Every producer licensed under this section shall notify the director of any change of address, on forms prescribed by the director, within thirty days of the change. If the failure to notify the director of the change of address results in an inability to serve the producer with a complaint as provided by sections 621.045 to 621.198, then the director may immediately revoke the license of the producer until such time as service may be obtained.

6. A producer shall report to the director any license revocation or civil action taken against the producer in another jurisdiction or by another governmental agency in this state within thirty days of the final disposition of the matter. This report shall include a copy of the order, consent order, or other relevant legal documents.

7. Within thirty days of the initial pretrial hearing date or arraignment, a producer shall report to the director any felony proceeding initiated by any state or the United States for any violation of law by the producer. The report shall include a copy of the indictment or information filed, the order resulting from the hearing and any other relevant legal documents.

**385.211. REGISTER OF BUSINESS ENTITY PRODUCERS TO BE MAINTAINED — INSPECTION OF LIST — UPDATING OF REGISTRY, WHEN. — 1.** A provider registered to issue motor vehicle extended service contracts in this state shall maintain a register of business entity producers who are authorized to sell, offer, negotiate, or solicit the sale of motor vehicle extended service contracts in this state, and shall make such list available for inspection upon request by the director. Within thirty days of a provider authorizing a producer to sell, offer, negotiate, or solicit motor vehicle extended service contracts, the provider shall enter the name and license number of the producer in the company registry of producers.

2. Within thirty days of a provider terminating a business entity producer's appointment to sell, offer, negotiate, or solicit motor vehicle extended service contracts, the

provider shall update the registry with the effective date of the termination. If a provider has possession of information relating to any cause for discipline under section 385.209, the provider shall notify the director of this information in writing. The privileges and immunities applicable to insurers under section 375.022 shall apply to providers for any information reported under this subsection.

**SECTION B. EMERGENCY CLAUSE.** — Because immediate action is necessary to ensure the continued application of Missouri law regulating and taxing surplus lines insurance in accordance with Public Law 111-203, the repeal and reenactment of sections 384.015, 384.017, 384.021, 384.043, 384.051, 384.057, and 384.061 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of sections 384.015, 384.017, 384.021, 384.043, 384.051, 384.057, and 384.061 of section A of this act shall be in full force and effect upon its passage and approval.

**SECTION C. EFFECTIVE DATE.** — The repeal and reenactment of sections 385.200, 385.206, and 385.208, and the enactment of sections 385.205, 385.207, 385.209, and 385.211 of section A of this act shall become effective January 1, 2012.

Approved July 7, 2011

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SB 135 [CCS HCS SS SB 135]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**Modifies provisions pertaining to the storage and dispensing of motor fuel and extends the expiration date to August 28, 2017 for environmental laws relating to dry-cleaning facilities.**

AN ACT to repeal sections 253.090, 260.262, 260.380, 260.475, 260.965, 306.109, 319.132, and 414.072, RSMo, and to enact in lieu thereof thirteen new sections relating to environmental protection, with penalty provisions and an emergency clause for certain sections.

**SECTION**

- A. Enacting clause.
- 253.090. State park earnings fund created, how used.
- 260.262. Retailers of lead-acid batteries, duties — notice to purchaser, contents.
- 260.269. In-state private entity disposal permitted, when.
- 260.380. Duties of hazardous waste generators — fees to be collected, disposition — exemptions — expiration of fees.
- 260.475. Fees to be paid by hazardous waste generators — exceptions — deposit of moneys — violations, penalty — deposit — fee requirement, expiration.
- 260.965. Expiration date.
- 306.109. Alcoholic drinking devices and containers prohibited on rivers — violation, penalty.
- 319.130. Public hearings required, when — training program requirements — record keeping — rulemaking authority.
- 319.132. Board of trustees to assess surcharge on petroleum products per transport load, exceptions, deposit in fund, refund procedure — rate of surcharge — suspension of fees, when.
- 414.072. Measuring devices, certain fuels, inspection, when — expiration date, effect of — correction or removal, when — public policy regarding devices.
- 640.116. Exemption from rules, system exclusively serving charitable or benevolent organization, when.
- 640.905. Permit issuance after expiration of statutorily required time frame — engineering plans, specifications and designs — permit application or modification, statement required, use by department.
  - 1. Motor fuel vapor recovery fees, department of natural resource to set — preemption of local enforcement.
- B. Emergency clause.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 253.090, 260.262, 260.380, 260.475, 260.965, 306.109, 319.132, and 414.072, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 253.090, 260.262, 260.269, 260.380, 260.475, 260.965, 306.109, 319.130, 319.132, 414.072, 640.116, 640.905, and 1, to read as follows:

**253.090. STATE PARK EARNINGS FUND CREATED, HOW USED.** — 1. All revenue derived from privileges, conveniences, contracts or otherwise, all moneys received by gifts, bequests or contributions or from county or municipal sources and all moneys received from the operation of concessions, projects or facilities and from resale items shall be paid into the state treasury to the credit of the "State Park Earnings Fund", which is hereby created. In the event any state park or any part thereof is taken under the power of eminent domain by the federal government the moneys paid for the taking shall be deposited in the state park earnings fund. The fund shall be used solely for the payment of the expenditures of the department of natural resources in the administration of this law, except that in any fiscal year the department may expend a sum not to exceed fifty percent of the preceding fiscal year's deposits to the state park earnings fund for the purpose of:

- (1) Paying the principal and interest of revenue bonds issued;
- (2) Providing an interest and sinking fund;
- (3) Providing a reasonable reserve fund;
- (4) Providing a reasonable fund for depreciation; and
- (5) Paying for feasibility reports necessary for the issuing of revenue bonds.

2. **Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.**

3. A good and sufficient bond conditioned upon the faithful performance of the contract and compliance with this law shall be required of all contractors.

[3.] 4. Any person who contracts pursuant to this section with the state shall keep true and accurate records of his or her receipts and disbursements arising out of the performance of the contract and shall permit the department of natural resources and the state auditor to audit such records.

[4. All moneys remaining in the state park revolving fund on July 1, 2000, shall be transferred to the state park earnings fund.]

**260.262. RETAILERS OF LEAD-ACID BATTERIES, DUTIES — NOTICE TO PURCHASER, CONTENTS.** — A person selling lead-acid batteries at retail or offering lead-acid batteries for retail sale in the state shall:

- (1) Accept, at the point of transfer, in a quantity at least equal to the number of new lead-acid batteries purchased, used lead-acid batteries from customers, if offered by customers;
- (2) Post written notice which must be at least four inches by six inches in size and must contain the universal recycling symbol and the following language:
  - (a) It is illegal to discard a motor vehicle battery or other lead-acid battery;
  - (b) Recycle your used batteries; and
  - (c) State law requires us to accept used motor vehicle batteries, or other lead-acid batteries for recycling, in exchange for new batteries purchased; and
- (3) Manage used lead-acid batteries in a manner consistent with the requirements of the state hazardous waste law;
- (4) Collect at the time of sale a fee of fifty cents for each lead-acid battery sold. Such fee shall be added to the total cost to the purchaser at retail after all applicable sales taxes on the battery have been computed. The fee imposed, less six percent of fees collected, which shall be

retained by the seller as collection costs, shall be paid to the department of revenue in the form and manner required by the department and shall include the total number of batteries sold during the preceding month. The department of revenue shall promulgate rules and regulations necessary to administer the fee collection and enforcement. The terms "sold at retail" and "retail sales" do not include the sale of batteries to a person solely for the purpose of resale, if the subsequent retail sale in this state is to the ultimate consumer and is subject to the fee. However, this fee shall not be paid on batteries sold for use in agricultural operations upon written certification by the purchaser; and

(5) The department of revenue shall administer, collect, and enforce the fee authorized pursuant to this section pursuant to the same procedures used in the administration, collection, and enforcement of the general state sales and use tax imposed pursuant to chapter 144 except as provided in this section. The proceeds of the battery fee, less four percent of the proceeds, which shall be retained by the department of revenue as collection costs, shall be transferred by the department of revenue into the hazardous waste fund, created pursuant to section 260.391. The fee created in subdivision (4) and this subdivision shall be effective October 1, 2005. The provisions of subdivision (4) and this subdivision shall terminate [June 30, 2011] **December 31, 2013.**

**260.269. IN-STATE PRIVATE ENTITY DISPOSAL PERMITTED, WHEN. — Notwithstanding any provision of law to the contrary, the state, including without limitation, any agency or political subdivision thereof, in possession of used tires, scrap tires, or tire shred may transfer possession and ownership of such tires or shred to any in-state private entity to be lawfully disposed of or recycled; provided, such tires or shred are not burned as a fuel except in a permitted facility; and further provided, such tires shall not be disposed of in a landfill; and still further provided, the cost incurred by the state, agency, or political subdivision transferring such tires or shred is less than the cost the state, agency, or political subdivision would have otherwise incurred had it disposed of such tires or shred. The private entity shall pay for the transportation of such used tires they receive.**

**260.380. DUTIES OF HAZARDOUS WASTE GENERATORS — FEES TO BE COLLECTED, DISPOSITION — EXEMPTIONS — EXPIRATION OF FEES. — 1.** After six months from the effective date of the standards, rules and regulations adopted by the commission pursuant to section 260.370, hazardous waste generators located in Missouri shall:

(1) Promptly file and maintain with the department, on registration forms it provides for this purpose, information on hazardous waste generation and management as specified by rules and regulations. Hazardous waste generators shall pay a one hundred dollar registration fee upon initial registration, and a one hundred dollar registration renewal fee annually thereafter to maintain an active registration. Such fees shall be deposited in the hazardous waste fund created in section 260.391;

(2) Containerize and label all hazardous wastes as specified by standards, rules and regulations;

(3) Segregate all hazardous wastes from all nonhazardous wastes and from noncompatible wastes, materials and other potential hazards as specified by standards, rules and regulations;

(4) Provide safe storage and handling, including spill protection, as specified by standards, rules and regulations, for all hazardous wastes from the time of their generation to the time of their removal from the site of generation;

(5) Unless provided otherwise in the rules and regulations, utilize only a hazardous waste transporter holding a license pursuant to sections 260.350 to 260.430 for the removal of all hazardous wastes from the premises where they were generated;

(6) Unless provided otherwise in the rules and regulations, provide a separate manifest to the transporter for each load of hazardous waste transported from the premises where it was generated. The generator shall specify the destination of such load on the manifest. The manner

in which the manifest shall be completed, signed and filed with the department shall be in accordance with rules and regulations;

(7) Utilize for treatment, resource recovery, disposal or storage of all hazardous wastes, only a hazardous waste facility authorized to operate pursuant to sections 260.350 to 260.430 or the federal Resource Conservation and Recovery Act, or a state hazardous waste management program authorized pursuant to the federal Resource Conservation and Recovery Act, or any facility exempted from the permit required pursuant to section 260.395;

(8) Collect and maintain such records, perform such monitoring or analyses, and submit such reports on any hazardous waste generated, its transportation and final disposition, as specified in sections 260.350 to 260.430 and rules and regulations adopted pursuant to sections 260.350 to 260.430;

(9) Make available to the department upon request samples of waste and all records relating to hazardous waste generation and management for inspection and copying and allow the department to make unhampered inspections at any reasonable time of hazardous waste generation and management facilities located on the generator's property and hazardous waste generation and management practices carried out on the generator's property;

(10) Pay annually, on or before January first of each year, effective January 1, 1982, a fee to the state of Missouri to be placed in the hazardous waste fund. The fee shall be five dollars per ton or portion thereof of hazardous waste registered with the department as specified in subdivision (1) of this subsection for the twelve-month period ending June thirtieth of the previous year. However, the fee shall not exceed fifty-two thousand dollars per generator site per year nor be less than one hundred fifty dollars per generator site per year;

(a) All moneys payable pursuant to the provisions of this subdivision shall be promptly transmitted to the department of revenue, which shall deposit the same in the state treasury to the credit of the hazardous waste fund created in section 260.391;

(b) The hazardous waste management commission shall establish and submit to the department of revenue procedures relating to the collection of the fees authorized by this subdivision. Such procedures shall include, but not be limited to, necessary records identifying the quantities of hazardous waste registered, the form and submission of reports to accompany the payment of fees, the time and manner of payment of fees, which shall not be more often than quarterly.

2. Missouri treatment, storage, or disposal facilities shall pay annually, on or before January first of each year, a fee to the department equal to two dollars per ton or portion thereof for all hazardous waste received from outside the state. This fee shall be based on the hazardous waste received for the twelve-month period ending June thirtieth of the previous year.

3. Exempted from the requirements of this section are individual householders and farmers who generate only small quantities of hazardous waste and any person the commission determines generates only small quantities of hazardous waste on an infrequent basis, except that:

(1) Householders, farmers and exempted persons shall manage all hazardous wastes they may generate in a manner so as not to adversely affect the health of humans, or pose a threat to the environment, or create a public nuisance; and

(2) The department may determine that a specific quantity of a specific hazardous waste requires special management. Upon such determination and after public notice by press release or advertisement thereof, including instructions for handling and delivery, generators exempted pursuant to this subsection shall deliver, but without a manifest or the requirement to use a licensed hazardous waste transporter, such waste to:

(a) Any storage, treatment or disposal site authorized to operate pursuant to sections 260.350 to 260.430 or the federal Resource Conservation and Recovery Act, or a state hazardous waste management program authorized pursuant to the federal Resource Conservation and Recovery Act which the department designates for this purpose; or

(b) A collection station or vehicle which the department may arrange for and designate for this purpose.

4. Failure to pay the fee, or any portion thereof, prescribed in this section by the due date shall result in the imposition of a penalty equal to fifteen percent of the original fee. The fee prescribed in this section shall expire December 31, [2011] **2013**, except that the department shall levy and collect this fee for any hazardous waste generated prior to such date and reported to the department.

**260.475. FEES TO BE PAID BY HAZARDOUS WASTE GENERATORS — EXCEPTIONS — DEPOSIT OF MONEYS — VIOLATIONS, PENALTY — DEPOSIT — FEE REQUIREMENT, EXPIRATION.** — 1. Every hazardous waste generator located in Missouri shall pay, in addition to the fees imposed in section 260.380, a fee of twenty-five dollars per ton annually on all hazardous waste which is discharged, deposited, dumped or placed into or on the soil as a final action, and two dollars per ton on all other hazardous waste transported off site. No fee shall be imposed upon any hazardous waste generator who registers less than ten tons of hazardous waste annually pursuant to section 260.380, or upon:

(1) Hazardous waste which must be disposed of as provided by a remedial plan for an abandoned or uncontrolled hazardous waste site;

(2) Fly ash waste, bottom ash waste, slag waste and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;

(3) Solid waste from the extraction, beneficiation and processing of ores and minerals, including phosphate rock and overburden from the mining of uranium ore and smelter slag waste from the processing of materials into reclaimed metals;

(4) Cement kiln dust waste;

(5) Waste oil; or

(6) Hazardous waste that is:

(a) Reclaimed or reused for energy and materials;

(b) Transformed into new products which are not wastes;

(c) Destroyed or treated to render the hazardous waste nonhazardous; or

(d) Waste discharged to a publicly owned treatment works.

2. The fees imposed in this section shall be reported and paid to the department on an annual basis not later than the first of January. The payment shall be accompanied by a return in such form as the department may prescribe.

3. All moneys collected or received by the department pursuant to this section shall be transmitted to the department of revenue for deposit in the state treasury to the credit of the hazardous waste fund created pursuant to section 260.391. Following each annual reporting date, the state treasurer shall certify the amount deposited in the fund to the commission.

4. If any generator or transporter fails or refuses to pay the fees imposed by this section, or fails or refuses to furnish any information reasonably requested by the department relating to such fees, there shall be imposed, in addition to the fee determined to be owed, a penalty of fifteen percent of the fee shall be deposited in the hazardous waste fund.

5. If the fees or any portion of the fees imposed by this section are not paid by the date prescribed for such payment, there shall be imposed interest upon the unpaid amount at the rate of ten percent per annum from the date prescribed for its payment until payment is actually made, all of which shall be deposited in the hazardous waste fund.

6. The state treasurer is authorized to deposit all of the moneys in the hazardous waste fund in any of the qualified depositories of the state. All such deposits shall be secured in such a manner and shall be made upon such terms and conditions as are now or may hereafter be provided for by law relative to state deposits. Interest received on such deposits shall be credited to the hazardous waste fund.

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7. This fee shall expire December 31, [2011] **2013**, except that the department shall levy and collect this fee for any hazardous waste generated prior to such date and reported to the department.

**260.965. EXPIRATION DATE.** — The provisions of sections 260.900 to 260.965 shall expire August 28, [2012] **2017**.

**306.109. ALCOHOLIC DRINKING DEVICES AND CONTAINERS PROHIBITED ON RIVERS — VIOLATION, PENALTY.** — 1. No person shall possess or use beer bongs or other drinking devices used to consume similar amounts of alcohol on the rivers of this state. As used in this section, the term "beer bong" includes any device that is intended and designed for the rapid consumption or intake of an alcoholic beverage, including but not limited to funnels, tubes, hoses, and modified containers with additional vents.

2. No person shall possess or use any large volume alcohol containers that hold more than four gallons of an alcoholic beverage on the rivers of this state.

3. [No person shall possess expanded polypropylene coolers on or within fifty feet of any river of this state, except in developed campgrounds, picnic areas, landings, roads and parking lots located within fifty feet of such rivers. This subsection shall not apply to high density bait containers used solely for such purpose.

4.] Any person who violates the provisions of this section is guilty of a class A misdemeanor.

[5.] **4.** The provisions of this section shall not apply to persons on the Mississippi River, Missouri River, or Osage River.

**319.130. PUBLIC HEARINGS REQUIRED, WHEN — TRAINING PROGRAM REQUIREMENTS — RECORD KEEPING — RULEMAKING AUTHORITY.** — 1. On or before April 1, 2012, the board of trustees of the petroleum storage tank insurance fund shall hold one or more public hearings to determine whether to create and fund an underground storage tank operator training program. The board shall consider at a minimum:

(1) Input from the department of natural resources, the department of agriculture, the board's advisory committee, and affected portions of the private sector;

(2) Relevant deadlines, time frames, costs, and benefits, including federal funding consequences for the state's underground storage tank regulatory program if such a training program is not implemented;

(3) Training programs already in existence in other states;

(4) Training programs already being used by tank owners and operators; and

(5) Such other factors as the board deems necessary and prudent.

2. If after completing the requirements of subsection 1 of this section, the board decides by majority vote to create and fund an underground storage tank operator training program, the training program shall at a minimum:

(1) Satisfy the federal requirements for such a program;

(2) Be developed in collaboration with the department of natural resources, the department of agriculture, the board's advisory committee, and affected portions of the private sector;

(3) Be offered at no cost to those who are required to participate;

(4) Specify standards, reporting, and documentation requirements; and

(5) Be established by rule.

3. The board may contract with one or more third parties to carry out the requirements of this section.

4. At any time after the board creates and funds the underground storage tank operator training program under subsection 2 of this section, the board may, by rule, modify or eliminate the program.

5. Any records created or maintained by the board as part of the underground storage tank operator training program created herein shall be public records under chapter 610 and shall be made readily available to the department of natural resources.

6. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2011, shall be invalid and void.

**319.132. BOARD OF TRUSTEES TO ASSESS SURCHARGE ON PETROLEUM PRODUCTS PER TRANSPORT LOAD, EXCEPTIONS, DEPOSIT IN FUND, REFUND PROCEDURE — RATE OF SURCHARGE — SUSPENSION OF FEES, WHEN. —** 1. The board shall assess a surcharge on all petroleum products within this state which are enumerated by section 414.032. Except as specified by this section, such surcharge shall be administered pursuant to the provisions of subsections 1 to [3] 5 of section 414.102 and subsections 1 and 2 of section 414.152. Such surcharge shall be imposed upon such petroleum products within this state and shall be assessed on each transport load, or the equivalent of an average transport load if moved by other means. All revenue generated by the assessment of such surcharges shall be deposited to the credit of the special trust fund known as the petroleum storage tank insurance fund.

2. Any person who claims to have paid the surcharge in error may file a claim for a refund with the board within three years of the payment. The claim shall be in writing and signed by the person or the person's legal representative. The board's decision on the claim shall be in writing and may be delivered to the person by first class mail. Any person aggrieved by the board's decision may seek judicial review by bringing an action against the board in the circuit court of Cole County pursuant to section 536.150 no later than sixty days following the date the board's decision was mailed. The department of revenue shall not be a party to such proceeding.

3. The board shall assess and annually reassess the financial soundness of the petroleum storage tank insurance fund.

4. (1) The board shall set, in a public meeting with an opportunity for public comment, the rate of the surcharge that is to be assessed on each such transport load or equivalent but such rate shall be no more than sixty dollars per transport load or an equivalent thereof. A transport load shall be deemed to be eight thousand gallons.

(2) The board may increase or decrease the surcharge, up to a maximum of sixty dollars, only after giving at least sixty days' notice of its intention to alter the surcharge; provided however, the board shall not increase the surcharge by more than fifteen dollars in any year. The board must coordinate its actions with the department of revenue to allow adequate time for implementation of the surcharge change.

(3) If the fund's cash balance on the first day of any month exceeds the sum of its liabilities, plus ten percent, the transport load fee shall automatically revert to twenty-five dollars per transport load on the first day of the second month following this event.

(4) Moneys generated by this surcharge shall not be used for any purposes other than those outlined in sections 319.129 through 319.133 and section 319.138. Nothing in this subdivision shall limit the board's authority to contract with the department of natural resources pursuant to section 319.129 to carry out the purposes of the fund as determined by the board.

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5. The board shall ensure that the fund retain a balance of at least twelve million dollars but not more than one hundred million dollars. If, at the end of any quarter, the fund balance is above one hundred million dollars, the treasurer shall notify the board thereof. The board shall suspend the collection of fees pursuant to this section beginning on the first day of the first quarter following the receipt of notice. If, at the end of any quarter, the fund balance is below twenty million dollars, the treasurer shall notify the board thereof. The board shall reinstate the collection of fees pursuant to this section beginning on the first day of the first quarter following the receipt of notice.

6. Railroad corporations as defined in section 388.010 and airline companies as defined in section 155.010 shall not be subject to the load fee described in this chapter nor permitted to participate in or make claims against the petroleum storage tank insurance fund created in section 319.129.

**414.072. MEASURING DEVICES, CERTAIN FUELS, INSPECTION, WHEN — EXPIRATION DATE, EFFECT OF — CORRECTION OR REMOVAL, WHEN — PUBLIC POLICY REGARDING DEVICES. —** 1. At least every six months, the director shall test and inspect the measuring devices used by any person selling an average of two hundred or more gallons of gasoline, gasoline-alcohol blends, diesel fuel, heating oil, kerosene, or aviation turbine fuel per month at either retail or wholesale in this state, except marine installations, which shall be tested and inspected at least once per year.

2. **The manufacturer's expiration date on motor fuel pump nozzles, hoses, and hose breakaway equipment shall not be the sole factor in requiring the repair or replacement of such devices and equipment nor in the issuance of any fine, penalty, or punishment by the state or any political subdivision. The manufacturer's expiration date on motor fuel pump nozzles, hoses, and hose breakaway equipment shall not impose any new or additional liability on the state, political subdivisions, motor fuel retailers, wholesalers, suppliers, and distributors, and the retailers and wholesalers of such devices and equipment.**

3. When the director finds that any measuring device does not correctly and accurately register and measure the monetary cost, if applicable, or the volume sold, he shall require the correction, removal, or discontinuance of the same.

[3.] 4. Notwithstanding any other law or rule to the contrary, it has been and continues to be the public policy of this state to prohibit gasoline and diesel motor fuel in a retail sale transaction from being dispensed by any measuring device or equipment that is not approved by the department of agriculture or the National Type Evaluation Program (NTEP). **Any automatic volumetric correction device for measuring gasoline, gasoline-alcohol blends, diesel fuel, and diesel fuel-biodiesel blends sold at retail fueling facilities is prohibited by state rule or the automatic adoption or incorporation of national standards or rules unless the device is first specifically authorized and required by state statute.**

**640.116. EXEMPTION FROM RULES, SYSTEM EXCLUSIVELY SERVING CHARITABLE OR BENEVOLENT ORGANIZATION, WHEN. —** 1. Any water system that exclusively serves a charitable or benevolent organization, if the system does not regularly serve an average of one hundred persons or more at least sixty days out of the year and the system does not serve a school or day-care facility, shall be exempt from all rules relating to well construction except any rules established under sections 256.600 to 256.640 applying to multifamily wells, unless such wells or pump installations for such wells are determined to present a threat to groundwater or public health.

2. If the system incurs three or more total coliform maximum contaminant level violations in a twelve-month period or one acute maximum contaminant level violation, the system owner shall either provide an alternate source of water, eliminate the source of

contamination, or provide treatment that reliably achieves at least ninety-nine and ninety-nine one-hundredths percent treatment of viruses.

3. Notwithstanding this or any other provision of law to the contrary, no facility otherwise described in subsection 1 of this section shall be required to replace, change, upgrade, or otherwise be compelled to alter an existing well constructed prior to August 28, 2011, unless such well is determined to present a threat to groundwater or public health or contains the contaminant levels referred to in subsection 2 of this section.

**640.905. PERMIT ISSUANCE AFTER EXPIRATION OF STATUTORILY REQUIRED TIME FRAME — ENGINEERING PLANS, SPECIFICATIONS AND DESIGNS — PERMIT APPLICATION OR MODIFICATION, STATEMENT REQUIRED, USE BY DEPARTMENT. — 1.** If engineering plans, specifications, and designs prepared by a registered professional engineer are submitted to the department of natural resources as part of a permit application or permit modification, the permit application or permit modification shall include a statement that the plans, specifications, and designs were prepared in accordance with the applicable requirements and shall be sealed by the registered professional engineer in accordance with section 327.411, as applicable. The department shall use the complete, sealed engineering plans, specifications, and designs as submitted in addition to permit applications and other relevant information, documents, and materials in developing comments on the engineering submittals and in determining whether to issue or deny permits. The review of documents, plans, specifications, and designs sealed by a registered professional engineer for an applicant shall be conducted by a registered professional engineer or an engineering intern on behalf of the department.

2. The department shall designate supervisory registered professional engineers for permitting purposes under this chapter and chapters 260, 278, 319, 444, 643, and 644. Any permit applicant receiving written comments on an engineering submittal may request a determination from the department's supervisory registered professional engineer as to a final disposition of the department's comments regarding engineering submittals in determining a decision on the permit. The department's supervisory engineer shall inform the permit applicant of a preliminary decision within fifteen days after the permit applicant's request for a determination and shall make a final determination within thirty days of such request.

3. Nothing in this section shall be construed to require plans or other submittals to the department pursuant to an application to come under a general permit or an application for a site specific permit to be prepared by a registered professional engineer, unless otherwise required under state or federal law.

**SECTION 1. MOTOR FUEL VAPOR RECOVERY FEES, DEPARTMENT OF NATURAL RESOURCES TO SET — PREEMPTION OF LOCAL ENFORCEMENT. —** Notwithstanding any other law or rule to the contrary, only the department of natural resources shall set stage 1 and 2 motor fuel vapor recovery fees, including permit and construction fees, which shall be uniform across the state and which shall not be modified, expanded, or increased by political subdivisions or local enforcement agencies.

**SECTION B. EMERGENCY CLAUSE. —** Because immediate action is necessary to maintain regulatory oversight by the state of Missouri, the repeal and reenactment of sections 253.090, 260.262, 260.380, and 260.475, of section A of this act are deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and are hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of sections 253.090, 260.262, 260.380, and 260.475 of section A of this act shall be in full force and effect upon its passage and approval.

Approved June 22, 2011

SB 161 [HCS SB 161]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**Allows the Missouri Agricultural and Small Business Development Authority to provide loan guarantees for loans to agribusinesses.**

AN ACT to repeal sections 273.327, 273.345, 348.400, 348.407, and 348.412, RSMo, and sections 273.327, 273.345, 273.347, and 1 as truly agreed to and finally passed by or as enacted by senate substitute for senate committee substitute for senate bills nos. 113 & 95, the ninety-sixth general assembly, first regular session, and to enact in lieu thereof seven new sections relating to agriculture, with penalty provisions and an emergency clause for certain sections.

SECTION

- A. Enacting clause.
- 273.327. License annually required to operate animal boarding facilities, pet shops, pounds, dealers and commercial breeders — fees, exemption from fees for certain licensees.
- 273.345. Canine Cruelty Prevention Act — citation of law — purpose — required care — definitions — veterinary records — space requirements — severability clause.
- 273.347. Court action for enforcement, when — crime of canine cruelty, penalty.
- 348.400. Definitions.
- 348.407. Development and implementation of grants and loans — fee authority's powers — assistance to businesses — rules.
- 348.412. Use of loan proceeds — eligibility — rules.
  - 1. Stacked cages without impervious barrier prohibited, penalty.
- 273.327. License annually required to operate animal boarding facilities, pet shops, pounds, dealers and commercial breeders — fees, exemption from fees for certain licensees.
- 273.345. Canine Cruelty Prevention Act — citation of law — purpose — required care — definitions — veterinary records — space requirements — severability clause.
- 273.347. Court action for enforcement, when — crime of canine cruelty, penalty.
  - 1. Stacked cages without impervious barrier prohibited, penalty.
- B. Emergency clause.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 273.327, 273.345, 348.400, 348.407, and 348.412, RSMo, and sections 273.327, 273.345, 273.347, and 1 as truly agreed to and finally passed by or as enacted by senate substitute for senate committee substitute for senate bills nos. 113 & 95, the ninety-sixth general assembly, first regular session, are repealed and seven new sections enacted in lieu thereof, to be known as sections 273.327, 273.345, 273.347, 348.400, 348.407, 348.412, and 1 to read as follows:

**273.327. LICENSE ANNUALLY REQUIRED TO OPERATE ANIMAL BOARDING FACILITIES, PET SHOPS, POUNDS, DEALERS AND COMMERCIAL BREEDERS — FEES, EXEMPTION FROM FEES FOR CERTAIN LICENSEES.** — No person shall operate an animal shelter, pound or dog pound, boarding kennel, commercial kennel, contract kennel, pet shop, or exhibition facility, other than a limited show or exhibit, or act as a dealer or commercial breeder, unless such person has obtained a license for such operations from the director. An applicant shall obtain a separate license for each separate physical facility subject to sections 273.325 to 273.357 which is operated by the applicant. Any person exempt from the licensing requirements of sections 273.325 to 273.357 may voluntarily apply for a license. Application for such license shall be made in the

manner provided by the director. The license shall expire annually unless revoked. As provided by rules to be promulgated by the director, the license fee shall range from one hundred to **two thousand** five hundred dollars per year. **Each licensee subject to sections 273.325 to 273.357 shall pay an additional annual fee of twenty-five dollars to be used by the department of agriculture for the purpose of administering Operation Bark Alert or any successor program.** Pounds or dog pounds shall be exempt from payment of [such fee] **the fees under this section.** License fees shall be levied for each license issued or renewed on or after January 1, 1993.

**273.345. CANINE CRUELTY PREVENTION ACT — CITATION OF LAW — PURPOSE — REQUIRED CARE — DEFINITIONS — VETERINARY RECORDS — SPACE REQUIREMENTS — SEVERABILITY CLAUSE.** — 1. This section shall be known and may be cited as the "[Puppy Mill] **Canine** Cruelty Prevention Act."

2. The purpose of this act is to prohibit the cruel and inhumane treatment of dogs [in puppy mills] **bred in large operations** by requiring large-scale dog breeding operations to provide each dog under their care with basic food and water, adequate shelter from the elements, necessary veterinary care, adequate space to turn around and stretch his or her limbs, and regular exercise.

3. Notwithstanding any other provision of law, any person having custody or ownership of more than ten female covered dogs for the purpose of breeding those animals and selling any offspring for use as a pet shall provide each covered dog:

- (1) Sufficient food and clean water;
- (2) Necessary veterinary care;
- (3) Sufficient housing, including protection from the elements;
- (4) Sufficient space to turn and stretch freely, lie down, and fully extend his or her limbs;
- (5) Regular exercise; and
- (6) Adequate rest between breeding cycles.

4. [Notwithstanding any other provision of law, no person may have custody of more than fifty covered dogs for the purpose of breeding those animals and selling any offspring for use as a pet.

5.] For purposes of this section and notwithstanding the provisions of section 273.325, the following terms have the following meanings:

(1) "Adequate rest between breeding cycles" means, at minimum, ensuring that **female** dogs are not bred to produce more [than two] litters in any [eighteen-month] **given period than what is recommended by a licensed veterinarian as appropriate for the species, age, and health of the dog;**

(2) "Covered dog" means any individual of the species of the domestic dog, *Canis lupus familiaris*, or resultant hybrids, that is over the age of six months and has intact sexual organs;

(3) "Necessary veterinary care" means, at minimum, examination at least once yearly by a licensed veterinarian, prompt treatment of any **serious** illness or injury by a licensed veterinarian, and where needed, humane euthanasia by a licensed veterinarian using lawful techniques deemed acceptable by the American Veterinary Medical Association;

(4) "Person" means any individual, firm, partnership, joint venture, association, limited liability company, corporation, estate, trust, receiver, or syndicate;

(5) "Pet" means any [domesticated animal] **species of the domestic dog, *Canis lupus familiaris*, or resultant hybrids**, normally maintained in or near the household of the owner thereof;

(6) "Regular exercise" means [constant and unfettered access to an outdoor exercise area that is composed of a solid ground-level surface with adequate drainage, provides some protection against sun, wind, rain, and snow, and provides each dog at least twice the square footage of the indoor floor space provided to that dog] **the type and amount of exercise sufficient to comply**

with an exercise plan that has been approved by a licensed veterinarian, developed in accordance with regulations regarding exercise promulgated by the Missouri department of agriculture, and where such plan affords the dog maximum opportunity for outdoor exercise as weather permits;

(7) "Retail pet store" means a person or retail establishment open to the public where dogs are bought, sold, exchanged, or offered for retail sale directly to the public to be kept as pets, but that does not engage in any breeding of dogs for the purpose of selling any offspring for use as a pet;

(8) "Sufficient food and clean water" means access to appropriate nutritious food at least [once] **twice** a day sufficient to maintain good health, and continuous access to potable water that is not frozen and is **generally** free of debris, feces, algae, and other contaminants;

(9) "Sufficient housing, including protection from the elements" means [constant and unfettered access to an indoor enclosure that has a solid floor, is not stacked or otherwise placed on top of or below another animal's enclosure, is cleaned of waste at least once a day while the dog is outside the enclosure, and does not fall below forty-five degrees Fahrenheit, or rise above eighty-five degrees Fahrenheit] **the continuous provision of a sanitary facility, the provision of a solid surface on which to lie in a recumbent position, protection from the extremes of weather conditions, proper ventilation, and appropriate space depending on the species of animal as required by regulations of the Missouri department of agriculture and in compliance with the provisions of subsection 7 of this section. No dog shall remain inside its enclosure while the enclosure is being cleaned. Dogs housed within the same enclosure shall be compatible, in accordance with regulations promulgated by the Missouri department of agriculture;**

(10) "Sufficient space to turn and stretch freely, lie down, and fully extend his or her limbs" means having:

(a) Sufficient indoor space **or shelter from the elements** for each dog to turn in a complete circle without any impediment (including a tether);

(b) Enough indoor space **or shelter from the elements** for each dog to lie down and fully extend his or her limbs and stretch freely without touching the side of an enclosure or another dog;

(c) [At least one foot of headroom above the head of the tallest dog in the enclosure; and

(d) At least twelve square feet of indoor floor space per each dog up to twenty-five inches long, at least twenty square feet of indoor floor space per each dog between twenty-five and thirty-five inches long, and at least thirty square feet of indoor floor space per each dog for dogs thirty-five inches and longer (with the length of the dog measured from the tip of the nose to the base of the tail)] **Appropriate space depending on the species of the animal, as specified in regulations by the Missouri department of agriculture, as revised, and in compliance with the provisions of subsection 7 of this section.**

[6. A person is guilty of the crime of puppy mill cruelty when he or she knowingly violates any provision of this section. The crime of puppy mill cruelty is a class C misdemeanor, unless the defendant has previously pled guilty to or been found guilty of a violation of this section, in which case each such violation is a class A misdemeanor. Each violation of this section shall constitute a separate offense. If any violation of this section meets the definition of animal abuse in section 578.012, the defendant may be charged and penalized under that section instead.

**7.] 5. Any person subject to the provisions of this section shall maintain all veterinary records and sales records for the most recent previous two years. These records shall be made available to the state veterinarian, a state or local animal welfare official, or a law enforcement agent upon request.**

**6.** The provisions of this section are in addition to, and not in lieu of, any other state and federal laws protecting animal welfare. This section shall not be construed to limit any state law or regulation protecting the welfare of animals, nor shall anything in this section prevent a local

governing body from adopting and enforcing its own animal welfare laws and regulations in addition to this section. This section shall not be construed to place any numerical limits on the number of dogs a person may own or control when such dogs are not used for breeding those animals and selling any offspring for use as a pet. This section shall not apply to a dog during examination, testing, operation, recuperation, or other individual treatment for veterinary purposes, during lawful scientific research, during transportation, during cleaning of a [dogs] **dog's** enclosure, during supervised outdoor exercise, or during any emergency that places a [dogs] **dog's** life in imminent danger. [This section shall not apply to any retail pet store, animal shelter as defined in section 273.325, hobby or show breeders who have custody of no more than ten female covered dogs for the purpose of breeding those dogs and selling any offspring for use as a pet, or dog trainer who does not breed and sell any dogs for use as a pet.] Nothing in this section shall be construed to limit hunting or the ability to breed, raise, [or] sell [hunting], **control, train, or possess dogs with the intention to use such dogs for hunting or other sporting purposes.**

**7. Notwithstanding any law to the contrary, the following space requirements shall apply under this section:**

**(1) From January 1, 2012, through December 31, 2015, for any enclosure existing prior to April 15, 2011, the minimum allowable space shall:**

**(a) Be two times the space allowable under the department of agriculture's regulation that was in effect on April 15, 2011;**

**(b) Except as prescribed by rule, provide constant and unfettered access to an attached outdoor run; and**

**(c) Meet all other requirements set forth by rule of the Missouri department of agriculture;**

**(2) For any enclosure newly constructed after April 15, 2011, and for all enclosures as of January 1, 2016, the minimum allowable space shall:**

**(a) Be three times the space allowable under the department of agriculture's regulation that was in effect on April 15, 2011;**

**(b) Except as prescribed by rule, provide constant and unfettered access to an attached outdoor run; and**

**(c) Meet all other requirements set forth by rule of the Missouri department of agriculture;**

**(3) For any enclosure newly constructed after April 15, 2011, and for all enclosures as of January 1, 2016, wire strand flooring shall be prohibited and all enclosures shall meet the flooring standard set forth by rule of the Missouri department of agriculture.**

8. If any provision of this section, or the application thereof to any person or circumstances, is held invalid or unconstitutional, that invalidity or unconstitutionality shall not affect other provisions or applications of this section that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this section are severable.

[9. The provisions herewith shall become operative one year after passage of this act.]

**273.347. COURT ACTION FOR ENFORCEMENT, WHEN — CRIME OF CANINE CRUELTY, PENALTY. — 1. Whenever the state veterinarian or a state animal welfare official finds past violations of sections 273.325 to 273.357 have occurred and have not been corrected or addressed, including operating without a valid license under section 273.327, the director may request the attorney general or the county prosecuting attorney or circuit attorney to bring an action in circuit court in the county where the violations have occurred for a temporary restraining order, preliminary injunction, permanent injunction, or a remedial order enforceable in a circuit court to correct such violations and, in addition, the court**

may assess a civil penalty in an amount not to exceed one thousand dollars for each violation. Each violation shall constitute a separate offense.

2. A person commits the crime of canine cruelty if such person repeatedly violates sections 273.325 to 273.357 so as to pose a substantial risk to the health and welfare of animals in such person's custody, or knowingly violates an agreed-to remedial order involving the safety and welfare of animals under this section. The crime of canine cruelty is a class C misdemeanor, unless the person has previously pled guilty or nolo contendere to or been found guilty of a violation of this subsection, in which case, each such violation is a class A misdemeanor.

3. The attorney general or the county prosecuting attorney or circuit attorney may bring an action under sections 273.325 to 273.357 in circuit court in the county where the crime has occurred for criminal punishment.

4. No action under this section shall prevent or preclude action taken under section 578.012 or under subsection 3 of section 273.329.

**348.400. DEFINITIONS.** — As used in sections 348.400 to 348.415, the following terms mean:

(1) "Agricultural business development loan", a loan for the acquisition, construction, improvement, or rehabilitation of agricultural property, **or for the expansion, acquisition, construction, improvement, or rehabilitation of a qualifying agribusiness;**

(2) "Agricultural product", an agricultural, horticultural, viticultural, or vegetable product, growing of grapes that will be processed into wine, bees, honey, fish or other aquacultural product, planting seed, livestock, a livestock product, a forestry product, poultry or a poultry product, either in its natural or processed state, that has been produced, processed, or otherwise had value added to it in this state;

(3) "Agricultural property", any land and easements and real and personal property, including, but not limited to, buildings, structures, improvements, and equipment which is used in Missouri by Missouri residents or Missouri-based businesses for the purpose of processing, manufacturing, marketing, exporting or adding value to an agricultural product. Agricultural property also includes any land and easements and real and personal property, including, but not limited to, buildings, structures, improvements, equipment and plant stock used for the growing of grapes which will be processed into wine;

(4) "Authority", the Missouri agricultural and small business development authority;

(5) "Eligible borrower", as defined in section 348.015;

(6) "Eligible lender", lender as defined in section 348.015;

(7) "Fund", the agricultural product utilization and business development loan guarantee fund or the agricultural product utilization grant fund;

(8) "Grant fund" the agricultural product utilization grant fund;

(9) "Program fund", the agricultural product utilization and business development loan program fund;

(10) **"Qualifying agribusiness", any business whose primary customer base is producers of agricultural goods and products or any business whose function is the support of agricultural production or processing by providing goods and services used for producing or processing agricultural products.**

**348.407. DEVELOPMENT AND IMPLEMENTATION OF GRANTS AND LOANS — FEE AUTHORITY'S POWERS — ASSISTANCE TO BUSINESSES — RULES.** — 1. The authority shall develop and implement agricultural products utilization grants as provided in this section.

2. The authority may reject any application for grants pursuant to this section.

3. The authority shall make grants, and may make loans or guaranteed loans from the grant fund to persons for the creation, development and operation, for up to three years from the time of application approval, of rural agricultural businesses whose projects add value to agricultural products and aid the economy of a rural community.

4. **The authority may make loan guarantees to qualified agribusinesses for agricultural business development loans for businesses that aid in the economy of a rural community and support production agriculture or add value to agricultural products by providing necessary products and services for production or processing.**

5. The authority may, upon the provision of a fee by the requesting person in an amount to be determined by the authority, provide for a feasibility study of the person's rural agricultural business concept.

[5.] 6. Upon a determination by the authority that such concept is feasible and upon the provision of a fee by the requesting person, in an amount to be determined by the authority, the authority may then provide for a marketing study. Such marketing study shall be designed to determine whether such concept may be operated profitably.

[6.] 7. Upon a determination by the authority that the concept may be operated profitably, the authority may provide for legal assistance to set up the business. Such legal assistance shall include, but not be limited to, providing advice and assistance on the form of business entity, the availability of tax credits and other assistance for which the business may qualify as well as helping the person apply for such assistance.

[7.] 8. The authority may provide or facilitate loans or guaranteed loans for the business including, but not limited to, loans from the United States Department of Agriculture Rural Development Program, subject to availability. Such financial assistance may only be provided to feasible projects, and for an amount that is the least amount necessary to cause the project to occur, as determined by the authority. The authority may structure the financial assistance in a way that facilitates the project, but also provides for a compensatory return on investment or loan payment to the authority, based on the risk of the project.

[8.] 9. The authority may provide for consulting services in the building of the physical facilities of the business.

[9.] 10. The authority may provide for consulting services in the operation of the business.

[10.] 11. The authority may provide for such services through employees of the state or by contracting with private entities.

[11.] 12. The authority may consider the following in making the decision:

- (1) The applicant's commitment to the project through the applicant's risk;
- (2) Community involvement and support;
- (3) The phase the project is in on an annual basis;
- (4) The leaders and consultants chosen to direct the project;
- (5) The amount needed for the project to achieve the bankable stage; and
- (6) The projects planning for long-term success through feasibility studies, marketing plans and business plans.

[12.] 13. The department of agriculture, the department of natural resources, the department of economic development and the University of Missouri may provide such assistance as is necessary for the implementation and operation of this section. The authority may consult with other state and federal agencies as is necessary.

[13.] 14. The authority may charge fees for the provision of any service pursuant to this section.

[14.] 15. The authority may adopt rules to implement the provisions of this section.

[15.] 16. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in sections 348.005 to 348.180 shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section

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536.028. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

**348.412. USE OF LOAN PROCEEDS — ELIGIBILITY — RULES.** — 1. Eligible borrowers:

(1) Shall use the proceeds of the agricultural business development loan to acquire agricultural property **or for the expansion, acquisition, construction, improvement, or rehabilitation of a qualifying agribusiness;** and

(2) May not finance more than ninety percent of the anticipated cost of the project through the agricultural business development loan.

2. The project shall have opportunities to succeed in the development, expansion and operation of businesses involved in adding value to, marketing, exporting, processing, or manufacturing agricultural products that will benefit the state economically and socially through direct or indirect job creation or job retention.

3. The authority shall promulgate rules establishing eligibility pursuant to the provisions of sections 348.400 to 348.415, taking into consideration:

(1) The eligible borrower's ability to repay the agricultural business development loan;

(2) The general economic conditions of the area in which the agricultural property will be located;

(3) The prospect of success of the particular project for which the loan is sought; and

(4) Such other factors as the authority may establish.

4. The authority may promulgate rules to provide for:

(1) The requirement or nonrequirement of security or endorsement and the nature thereof;

(2) The manner and time of repayment of the principal and interest;

(3) The maximum rate of interest;

(4) The right of the eligible borrower to accelerate payments without penalty;

(5) The amount of the guaranty charge;

(6) The effective period of the guaranty;

(7) The percent of the agricultural business development loan, not to exceed fifty percent, covered by the guaranty;

(8) The assignability of agricultural business development loans by the eligible lender;

(9) Procedures in the event of default on an agricultural business development loan;

(10) The due diligence effort on the part of eligible lenders for collection of guaranteed loans;

(11) Collection assistance to be provided to eligible lenders; and

(12) The extension of the guaranty in consideration of duty in the armed forces, unemployment, natural disasters, or other hardships.

**SECTION 1. STACKED CAGES WITHOUT IMPERVIOUS BARRIER PROHIBITED, PENALTY.**

— Any person required to have a license under sections 273.325 to 273.357 who houses animals in stacked cages without an impervious barrier between the levels of such cages, except when cleaning such cages, is guilty of a class A misdemeanor.

**[273.327. LICENSE ANNUALLY REQUIRED TO OPERATE ANIMAL BOARDING FACILITIES, PET SHOPS, POUNDS, DEALERS AND COMMERCIAL BREEDERS — FEES, EXEMPTION FROM FEES FOR CERTAIN LICENSEES.** — No person shall operate an

animal shelter, pound or dog pound, boarding kennel, commercial kennel, contract kennel, pet shop, or exhibition facility, other than a limited show or exhibit, or act as a dealer or commercial breeder, unless such person has obtained a license for such operations from the director. An applicant shall obtain a separate license for each separate physical facility subject to sections 273.325 to 273.357 which is operated by the applicant. Any person exempt from the licensing requirements of sections 273.325 to 273.357 may voluntarily apply for a license. Application for such license shall be made in the manner provided by the director. The license shall expire annually unless revoked. As provided by rules to be promulgated by the director, the license fee shall range from one hundred to **two thousand** five hundred dollars per year. **Each licensee subject to sections 273.325 to 273.357 shall pay an additional annual fee of twenty-five dollars to be used by the department of agriculture for the purpose of administering Operation Bark Alert or any successor program.** Pounds or dog pounds shall be exempt from payment of [such fee] **the fees under this section.** License fees shall be levied for each license issued or renewed on or after January 1, 1993.]

**[273.345. CANINE CRUELTY PREVENTION ACT — CITATION OF LAW — PURPOSE — REQUIRED CARE — DEFINITIONS — VETERINARY RECORDS — SPACE REQUIREMENTS — SEVERABILITY CLAUSE. — 1.** This section shall be known and may be cited as the "[Puppy Mill] **Canine** Cruelty Prevention Act."

2. The purpose of this act is to prohibit the cruel and inhumane treatment of dogs [in puppy mills] **bred in large operations** by requiring large-scale dog breeding operations to provide each dog under their care with basic food and water, adequate shelter from the elements, necessary veterinary care, adequate space to turn around and stretch his or her limbs, and regular exercise.

3. Notwithstanding any other provision of law, any person having custody or ownership of more than ten female covered dogs for the purpose of breeding those animals and selling any offspring for use as a pet shall provide each covered dog:

- (1) Sufficient food and clean water;
- (2) Necessary veterinary care;
- (3) Sufficient housing, including protection from the elements;
- (4) Sufficient space to turn and stretch freely, lie down, and fully extend his or her limbs;
- (5) Regular exercise; and
- (6) Adequate rest between breeding cycles.

4. [Notwithstanding any other provision of law, no person may have custody of more than fifty covered dogs for the purpose of breeding those animals and selling any offspring for use as a pet.

5.] For purposes of this section and notwithstanding the provisions of section 273.325, the following terms have the following meanings:

- (1) "Adequate rest between breeding cycles" means, at minimum, ensuring that **female** dogs are not bred to produce more [than two] litters in any [eighteen-month] **given period than what is recommended by a licensed veterinarian as appropriate for the species, age, and health of the dog;**
- (2) "Covered dog" means any individual of the species of the domestic dog, *Canis lupus familiaris*, or resultant hybrids, that is over the age of six months and has intact sexual organs;
- (3) "Necessary veterinary care" means[, at minimum, examination at least once yearly] **at least two personal visual inspections annually** by a licensed veterinarian,

guidance from a licensed veterinarian on preventative care, an exercise plan that has been approved by a licensed veterinarian, normal and prudent attention to skin, coat, and nails, prompt treatment of any illness or injury [by a licensed veterinarian], and where needed, humane euthanasia by a licensed veterinarian using lawful techniques deemed acceptable by the American Veterinary Medical Association. **If, during the course of a routine personal visual inspection, the licensed veterinarian detects signs of disease or injury, then a physical examination of any such afflicted dog shall be conducted by a licensed veterinarian;**

(4) "Person" means any individual, firm, partnership, joint venture, association, limited liability company, corporation, estate, trust, receiver, or syndicate;

(5) "Pet" means any [domesticated animal] **species of the domestic dog, *Canis lupus familiaris*, or resultant hybrids**, normally maintained in or near the household of the owner thereof;

(6) "Regular exercise" means [constant and unfettered access to an outdoor exercise area that is composed of a solid ground-level surface with adequate drainage, provides some protection against sun, wind, rain, and snow, and provides each dog at least twice the square footage of the indoor floor space provided to that dog] **the type and amount of exercise sufficient to comply with an exercise plan that has been approved by a licensed veterinarian, developed in accordance with regulations regarding exercise promulgated by the Missouri department of agriculture, and where such plan affords the dog maximum opportunity for outdoor exercise as weather permits;**

(7) "Retail pet store" means a person or retail establishment open to the public where dogs are bought, sold, exchanged, or offered for retail sale directly to the public to be kept as pets, but that does not engage in any breeding of dogs for the purpose of selling any offspring for use as a pet;

(8) "Sufficient food and clean water" means [access to appropriate nutritious food at least once a day sufficient to maintain good health, and continuous access to potable water that is not frozen and is free of debris, feces, algae, and other contaminants];

(a) **The provision, at suitable intervals of not more than twelve hours, unless the dietary requirements of the species requires a longer interval, of a quantity of wholesome foodstuff, suitable for the species and age, enough to maintain a reasonable level of nutrition in each animal. All foodstuffs shall be served in a safe receptacle, dish, or container; and**

(b) **The provision of a supply of potable water in a safe receptacle, dish, or container. Water shall be provided continuously or at intervals suitable to the species, with no interval to exceed eight hours;**

(9) "Sufficient housing, including protection from the elements" means [constant and unfettered access to an indoor enclosure that has a solid floor, is not stacked or otherwise placed on top of or below another animal's enclosure, is cleaned of waste at least once a day while the dog is outside the enclosure, and does not fall below forty-five degrees Fahrenheit, or rise above eighty-five degrees Fahrenheit] **the continuous provision of a sanitary facility, the provision of a solid surface on which to lie in a recumbent position, protection from the extremes of weather conditions, proper ventilation, and appropriate space depending on the species of animal as required by regulations of the Missouri department of agriculture. No dog shall remain inside its enclosure while the enclosure is being cleaned. Dogs housed within the same enclosure shall be compatible, in accordance with regulations promulgated by the Missouri department of agriculture;**

(10) "Sufficient space to turn and stretch freely, lie down, and fully extend his or her limbs" means [having:

(a) Sufficient indoor space for each dog to turn in a complete circle without any impediment (including a tether);

(b) Enough indoor space for each dog to lie down and fully extend his or her limbs and stretch freely without touching the side of an enclosure or another dog;

(c) At least one foot of headroom above the head of the tallest dog in the enclosure; and

(d) At least twelve square feet of indoor floor space per each dog up to twenty-five inches long, at least twenty square feet of indoor floor space per each dog between twenty-five and thirty-five inches long, and at least thirty square feet of indoor floor space per each dog for dogs thirty-five inches and longer (with the length of the dog measured from the tip of the nose to the base of the tail)] **appropriate space depending on the species of the animal, as specified in regulations by the Missouri department of agriculture, as revised.**

[6. A person is guilty of the crime of puppy mill cruelty when he or she knowingly violates any provision of this section. The crime of puppy mill cruelty is a class C misdemeanor, unless the defendant has previously pled guilty to or been found guilty of a violation of this section, in which case each such violation is a class A misdemeanor. Each violation of this section shall constitute a separate offense. If any violation of this section meets the definition of animal abuse in section 578.012, the defendant may be charged and penalized under that section instead.

7.] **5. Any person subject to the provisions of this section shall maintain all veterinary records and sales records for the most recent previous two years. These records shall be made available to the state veterinarian, a state or local animal welfare official, or a law enforcement agent upon request.**

6. The provisions of this section are in addition to, and not in lieu of, any other state and federal laws protecting animal welfare. This section shall not be construed to limit any state law or regulation protecting the welfare of animals, nor shall anything in this section prevent a local governing body from adopting and enforcing its own animal welfare laws and regulations in addition to this section. This section shall not be construed to place any numerical limits on the number of dogs a person may own or control when such dogs are not used for breeding those animals and selling any offspring for use as a pet. This section shall not apply to a dog during examination, testing, operation, recuperation, or other individual treatment for veterinary purposes, during lawful scientific research, during transportation, during cleaning of a [dogs] **dog's** enclosure, during supervised outdoor exercise, or during any emergency that places a [dogs] **dog's** life in imminent danger. [This section shall not apply to any retail pet store, animal shelter as defined in section 273.325, hobby or show breeders who have custody of no more than ten female covered dogs for the purpose of breeding those dogs and selling any offspring for use as a pet, or dog trainer who does not breed and sell any dogs for use as a pet.] Nothing in this section shall be construed to limit hunting or the ability to breed, raise, [or] sell [hunting], **control, train, or possess dogs with the intention to use such dogs for hunting or other sporting purposes.**

[8.] **7.** If any provision of this section, or the application thereof to any person or circumstances, is held invalid or unconstitutional, that invalidity or unconstitutionality shall not affect other provisions or applications of this section that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this section are severable.

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[9.] 8. The provisions herewith shall become operative one year after passage of this act.]

**[273.347. COURT ACTION FOR ENFORCEMENT, WHEN — CRIME OF CANINE CRUELTY, PENALTY. — 1. Whenever the state veterinarian or a state animal welfare official finds past violations of sections 273.325 to 273.357 have occurred and have not been corrected or addressed, including operating without a valid license under section 273.327, the director may request the attorney general or the county prosecuting attorney or circuit attorney to bring an action in circuit court in the county where the violations have occurred for a temporary restraining order, preliminary injunction, permanent injunction, or a remedial order enforceable in a circuit court to correct such violations and, in addition, the court may assess a civil penalty in an amount not to exceed one thousand dollars for each violation. Each violation shall constitute a separate offense.**

**2. A person commits the crime of canine cruelty if such person repeatedly violates sections 273.325 to 273.357 so as to pose a substantial risk to the health and welfare of animals in such person's custody, or knowingly violates an agreed-to remedial order involving the safety and welfare of animals under this section. The crime of canine cruelty is a class C misdemeanor, unless the person has previously pled guilty or nolo contendere to or been found guilty of a violation of this subsection, in which case, each such violation is a class A misdemeanor.**

**3. The attorney general or the county prosecuting attorney or circuit attorney may bring an action under sections 273.325 to 273.357 in circuit court in the county where the crime has occurred for criminal punishment.**

**4. No action under this section shall prevent or preclude action taken under section 578.012 or under subsection 3 of section 273.329.]**

**[SECTION 1. STACKED CAGES WITHOUT IMPERVIOUS BARRIER PROHIBITED, PENALTY. — Any person required to have a license under sections 273.325 to 273.357 who houses animals in stacked cages without an impervious barrier between the levels of such cages, except when cleaning such cages, is guilty of a class A misdemeanor.]**

**SECTION B. EMERGENCY CLAUSE.** — In order to improve the immediate health and welfare of dogs in this state and to provide sufficient time for businesses to comply with changes in the law, the repeal and reenactment of sections 273.327 and 273.345, the enactment of sections 273.347 and 1, and the repeal of sections 273.327, 273.345, 273.347, and 1 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of sections 273.327 and 273.345, the enactment of sections 273.347 and 1, and the repeal of sections 273.327, 273.345, 273.347, and 1 of section A of this act shall be in full force and effect upon its passage and approval.

Approved April 27, 2011

SB 165 [SB 165]

**EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

**Extends the sunset on the Basic Civil Legal Services Fund.**

AN ACT to repeal section 477.650, RSMo, and to enact in lieu thereof one new section relating to the basic civil legal services fund.

**SECTION**

A. Enacting clause.

477.650. Basic civil legal services fund created, moneys to be used to increase funding for legal services to eligible low-income persons — allocation of moneys — record-keeping requirements — report to general assembly — expiration date.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Section 477.650, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 477.650, to read as follows:

**477.650. BASIC CIVIL LEGAL SERVICES FUND CREATED, MONEYS TO BE USED TO INCREASE FUNDING FOR LEGAL SERVICES TO ELIGIBLE LOW-INCOME PERSONS — ALLOCATION OF MONEYS — RECORD-KEEPING REQUIREMENTS — REPORT TO GENERAL ASSEMBLY — EXPIRATION DATE.** — 1. There is hereby created in the state treasury the "Basic Civil Legal Services Fund", to be administered by, or under the direction of, the Missouri supreme court. All moneys collected under section 488.031 shall be credited to the fund. In addition to the court filing surcharges, funds from other public or private sources also may be deposited into the fund and all earnings of the fund shall be credited to the fund. The purpose of this section is to increase the funding available for basic civil legal services to eligible low-income persons as such persons are defined by the Federal Legal Services Corporation's Income Eligibility Guidelines.

2. Funds in the basic civil legal services fund shall be allocated annually and expended to provide legal representation to eligible low-income persons in the state in civil matters. Moneys, funds, or payments paid to the credit of the basic civil legal services fund shall, at least as often as annually, be distributed to the legal services organizations in this state which qualify for Federal Legal Services Corporation funding. The funds so distributed shall be used by legal services organizations in this state solely to provide legal services to eligible low-income persons as such persons are defined by the Federal Legal Services Corporation's Income Eligibility Guidelines. Fund money shall be subject to all restrictions imposed on such legal services organizations by law. Funds shall be allocated to the programs according to the funding formula employed by the Federal Legal Services Corporation for the distribution of funds to this state. Notwithstanding the provisions of section 33.080, any balance remaining in the basic civil legal services fund at the end of any year shall not be transferred to the state's general revenue fund. Moneys in the basic civil legal services fund shall not be used to pay any portion of a refund mandated by article X, section 15 of the Missouri Constitution. State legal services programs shall represent individuals to secure lawful state benefits, but shall not sue the state, its agencies, or its officials, with any state funds.

3. Contracts for services with state legal services programs shall provide eligible low-income Missouri citizens with equal access to the civil justice system, with a high priority on families and children, domestic violence, the elderly, and qualification for benefits under the Social Security Act. State legal services programs shall abide by all restrictions, requirements, and regulations of the Legal Services Corporation regarding their cases.

4. The Missouri supreme court, or a person or organization designated by the court, is the administrator and shall administer the fund in such manner as determined by the Missouri supreme court, including in accordance with any rules and policies adopted by the Missouri supreme court for such purpose. Moneys from the fund shall be used to pay for the collection of the fee and the implementation and administration of the fund.

5. Each recipient of funds from the basic civil legal services fund shall maintain appropriate records accounting for the receipt and expenditure of all funds distributed and received pursuant to this section. These records must be maintained for a period of five years from the close of the fiscal year in which such funds are distributed or received or until audited, whichever is sooner. All funds distributed or received pursuant to this section are subject to audit by the Missouri supreme court or the state auditor.

6. The Missouri supreme court, or a person or organization designated by the court, shall, by January thirty-first of each year, report to the general assembly on the moneys collected and disbursed pursuant to this section and section 488.031 by judicial circuit.

7. The provisions of this section shall expire on December 31, [2012] **2018**.

Approved July 8, 2011

### SB 173 [CCS HCS SB 173]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**Requires the Joint Committee on Missouri's Promise to develop long-term strategies and plans relating to developing a modern infrastructure and transportation system.**

AN ACT to repeal sections 21.920, 227.107, 227.410, 238.202, 238.225, 238.235, 319.016, and 319.025, RSMo, and to enact in lieu thereof twelve new section relating to infrastructure.

#### SECTION

- A. Enacting clause.
- 21.920. Committee established, members, terms, duties — report.
- 226.195. Missouri state transit assistance program — definitions, purpose, rulemaking authority.
- 227.107. Design-build project contracts permitted, limitations, exceptions — definitions — written procedures required — submission of detailed disadvantaged business enterprise participation plan — bid process — rulemaking authority — status report to general assembly — cost estimates to be published.
- 227.410. Rabbi Ernest I. Jacob Memorial Highway designated for portion of Highway 160 in Greene County.
- 227.424. Missouri State Highway Patrol Sergeant Joseph G. Schuengel Memorial Highway designated for portion of I-40/64 in St. Louis County.
- 227.430. SFC Wm. Brian Woods, Jr. Memorial Highway designated for portion of Highway 30 in Jefferson County.
- 238.202. Definitions.
- 238.225. Projects, submission of plans to commission, approval — submission to local transportation authority, when — exemption.
- 238.235. Sales tax, certain districts, exemptions from tax — election, ballot form — procedures for collection, distribution, use — repeal of tax — not considered economic activity tax.
- 249.425. Metropolitan sewer district, design-build contracts authorized, procedure — exemption.
- 319.016. Notification center participant, commission not required to be, when.
- 319.025. Excavator must give notice and obtain information, when, how — notice to notification center, when — clarification of markings, response — project plans provided, when — permit for highway excavation required.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 21.920, 227.107, 227.410, 238.202, 238.225, 238.235, 319.016, and 319.025, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 21.920, 226.195, 227.107, 227.410, 227.424, 227.430, 238.202, 238.225, 238.235, 249.425, 319.016, and 319.025, to read as follows:

**21.920. COMMITTEE ESTABLISHED, MEMBERS, TERMS, DUTIES — REPORT.** — 1. There is established a joint committee of the general assembly to be known as the "Joint Committee on

Missouri's Promise" to be composed of five members of the senate and five members of the house of representatives. The senate members of the joint committee shall be appointed by the president pro tem of the senate and the house members shall be appointed by the speaker of the house of representatives. The appointment of each member shall continue during the member's term of office as a member of the general assembly or until a successor has been appointed to fill the member's place when his or her term of office as a member of the general assembly has expired. No party shall be represented by more than three members from the house of representatives nor more than three members from the senate. A majority of the committee shall constitute a quorum, but the concurrence of a majority of the members shall be required for the determination of any matter within the committee's duties.

2. The committee shall be charged with the following:

(1) Examining issues that will be impacting the future of the state of Missouri and its citizens;

(2) Developing long-term strategies and plans for:

(a) Increasing the economic prosperity and opportunities for the citizens of this state;

(b) Improving the health status of our citizens;

(c) An education system that educates students who are capable of attending and being productive and successful citizens and designed to successfully prepare graduates for global competition; [and]

(d) **Investing in, and maintaining, a modern infrastructure and transportation system and identifying potential sources of revenue to sustain such efforts; and**

(e) Other areas that the committee determines are vital to improving the lives of the citizens of Missouri;

(3) Developing three-, five-, and ten-year plans for the general assembly to meet the long-term strategies outlined in subdivision (2) of this subsection;

(4) Implementing budget forecasting for the upcoming ten years in order to plan for the long-term financial soundness of the state; and

(5) Such other matters as the committee may deem necessary in order to determine the proper course of future legislative and budgetary action regarding these issues.

3. The committee may solicit input and information necessary to fulfill its obligations, including, but not limited to, soliciting input and information from any state department or agency the committee deems relevant, political subdivisions of this state, and the general public.

4. By January 1, 2011, and every year thereafter, the committee shall issue a report to the general assembly with any findings or recommendations of the committee with regard to its duties under subsection 2 of this section.

5. Members of the committee shall receive no compensation but may be reimbursed for reasonable and necessary expenses associated with the performance of their official duties.

**226.195. MISSOURI STATE TRANSIT ASSISTANCE PROGRAM — DEFINITIONS, PURPOSE, RULEMAKING AUTHORITY. — 1. As used in this section, the following terms mean:**

(1) "Commission", the Missouri highways and transportation commission;

(2) "Department", the Missouri department of transportation;

(3) "Public mass transportation service provider", a city, a city transit authority, a city utilities board, or an interstate transportation authority as such terms are defined in section 94.600, an intrastate transportation authority, or an agency receiving funding from either the federal transit administration urban or nonurban formula transit program.

2. There is hereby created the Missouri state transit assistance program. The purpose of this program is to provide state financial assistance to defray the operating and capital costs incurred by public mass transportation service providers.

3. Funds appropriated to the Missouri state transit assistance program shall be appropriated to the department and administered by the department on behalf of the



commission. The distribution of funds to public mass transportation service providers shall be determined by evaluating factors including but not limited to the following:

- (1) Population;
- (2) Ridership;
- (3) Cost and efficiency of the program;
- (4) Availability of alternative transportation in the area;
- (5) Local effort or tax support.

4. The commission shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2011, shall be invalid and void.

**227.107. DESIGN-BUILD PROJECT CONTRACTS PERMITTED, LIMITATIONS, EXCEPTIONS — DEFINITIONS — WRITTEN PROCEDURES REQUIRED — SUBMISSION OF DETAILED DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION PLAN — BID PROCESS — RULEMAKING AUTHORITY — STATUS REPORT TO GENERAL ASSEMBLY — COST ESTIMATES TO BE PUBLISHED.** — 1. Notwithstanding any provision of section 227.100 to the contrary, as an alternative to the requirements and procedures specified by sections 227.040 to 227.100, the state highways and transportation commission is authorized to enter into highway design-build project contracts. The total number of highway design-build project contracts awarded by the commission in any state fiscal year shall not exceed two percent of the total number of all state highway system projects **awarded to contracts for construction from projects** listed in the commission's approved statewide transportation improvement project for that state fiscal year. Authority to enter into design-build projects granted by this section shall expire on July 1, [2012] **2018**, unless extended by statute.

2. Notwithstanding provisions of subsection 1 of this section to the contrary, the state highways and transportation commission is authorized to enter into additional design-build contracts for the design, construction, reconstruction, or improvement of Missouri Route 364 as contained in any county with a charter form of government and with more than two hundred fifty thousand but fewer than three hundred fifty thousand inhabitants and in any county with a charter form of government and with more than one million inhabitants, and the State Highway 169 and 96th Street intersection located within a home rule city with more than four hundred thousand inhabitants and located in more than one county. The state highways and transportation commission is authorized to enter into an additional design-build contract for the design, construction, reconstruction, or improvement of State Highway 92, contained in a county of the first classification with more than one hundred eighty-four thousand but fewer than one hundred eighty-eight thousand inhabitants, from its intersection with State Highway 169, east to its intersection with State Highway E. **The state highways and transportation commission is authorized to enter into an additional design-build contract for the design, construction, reconstruction, or improvement of US 40/61 I-64 Missouri River Bridge as contained in any county with a charter form of government and with more than one million inhabitants and any county with a charter form of government and with more than two hundred fifty thousand but fewer than three hundred fifty thousand inhabitants.** The authority to enter into a design-build highway project under this subsection shall not be subject to the time limitation expressed in subsection 1 of this section.

3. For the purpose of this section a "design-builder" is defined as an individual, corporation, partnership, joint venture or other entity, including combinations of such entities making a proposal to perform or performing a design-build highway project contract.

4. For the purpose of this section, "design-build highway project contract" is defined as the procurement of all materials and services necessary for the design, construction, reconstruction or improvement of a state highway project in a single contract with a design-builder capable of providing the necessary materials and services.

5. For the purpose of this section, "highway project" is defined as the design, construction, reconstruction or improvement of highways or bridges under contract with the state highways and transportation commission, which is funded by state, federal or local funds or any combination of such funds.

6. In using a design-build highway project contract, the commission shall establish a written procedure by rule for prequalifying design-builders before such design-builders will be allowed to make a proposal on the project.

7. In any design-build highway project contract, whether involving state or federal funds, the commission shall require that each person submitting a request for qualifications provide a detailed disadvantaged business enterprise participation plan. The plan shall provide information describing the experience of the person in meeting disadvantaged business enterprise participation goals, how the person will meet the department of transportation's disadvantaged business enterprise participation goal and such other qualifications that the commission considers to be in the best interest of the state.

8. The commission is authorized to issue a request for proposals to a maximum of five design-builders prequalified in accordance with subsection 6 of this section.

9. The commission may require approval of any person performing subcontract work on the design-build highway project.

10. Notwithstanding the provisions of sections 107.170, and 227.100, to the contrary, the commission shall require the design-builder to provide to the commission directly such bid, performance and payment bonds, or such letters of credit, in such terms, durations, amounts, and on such forms as the commission may determine to be adequate for its protection and provided by a surety or sureties authorized to conduct surety business in the state of Missouri or a federally insured financial institution or institutions, satisfactory to the commission, including but not limited to:

(1) A bid or proposal bond, cash or a certified or cashier's check;

(2) A performance bond or bonds for the construction period specified in the design-build highway project contract equal to a reasonable estimate of the total cost of construction work under the terms of the design-build highway project contract. If the commission determines in writing supported by specific findings that the reasonable estimate of the total cost of construction work under the terms of the design-build highway project contract is expected to exceed two-hundred fifty million dollars and a performance bond or bonds in such amount is impractical, the commission shall set the performance bond or bonds at the largest amount reasonably available, but not less than two-hundred fifty million dollars, and may require additional security, including but not limited to letters of credit, for the balance of the estimate not covered by the performance bond or bonds;

(3) A payment bond or bonds that shall be enforceable under section 522.300 for the protection of persons supplying labor and material in carrying out the construction work provided for in the design-build highway project contract. The aggregate amount of the payment bond or bonds shall equal a reasonable estimate of the total amount payable for the cost of construction work under the terms of the design-build highway project contract unless the commission determines in writing supported by specific findings that a payment bond or bonds in such amount is impractical, in which case the commission shall establish the amount of the payment bond or bonds; except that the amount of the payment bond or bonds shall not be less than the aggregate

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amount of the performance bond or bonds and any additional security to such performance bond or bonds; and

(4) Upon award of the design-build highway project contract, the sum of the performance bond and any required additional security established under subdivisions (2) and (3) of this subsection shall be stated, and shall be a matter of public record.

11. The commission is authorized to prescribe the form of the contracts for the work.

12. The commission is empowered to make all final decisions concerning the performance of the work under the design-build highway project contract, including claims for additional time and compensation.

13. The provisions of sections 8.285 to 8.291 shall not apply to the procurement of architectural, engineering or land surveying services for the design-build highway project, except that any person providing architectural, engineering or land surveying services for the design-builder on the design-build highway project must be licensed in Missouri to provide such services.

14. The commission shall pay a reasonable stipend to prequalified responsive design-builders who submit a proposal, but are not awarded the design-build highway project.

15. The commission shall comply with the provisions of any act of congress or any regulations of any federal administrative agency which provides and authorizes the use of federal funds for highway projects using the design-build process.

16. The commission shall promulgate administrative rules to implement this section or to secure federal funds. Such rules shall be published for comment in the Missouri Register and shall include prequalification criteria, the make-up of the prequalification review team, specifications for the design criteria package, the method of advertising, receiving and evaluating proposals from design-builders, the criteria for awarding the design-build highway project based on the design criteria package and a separate proposal stating the cost of construction, and other methods, procedures and criteria necessary to administer this section.

17. The commission shall make a status report to the members of the general assembly and the governor following the award of the design-build project, as an individual component of the annual report submitted by the commission to the joint transportation oversight committee in accordance with the provisions of section 21.795. The annual report prior to advertisement of the design-build highway project contracts shall state the goals of the project in reducing costs and/or the time of completion for the project in comparison to the design-bid-build method of construction and objective measurements to be utilized in determining achievement of such goals. Subsequent annual reports shall include: the time estimated for design and construction of different phases or segments of the project and the actual time required to complete such work during the period; the amount of each progress payment to the design-builder during the period and the percentage and a description of the portion of the project completed regarding such payment; the number and a description of design change orders issued during the period and the cost of each such change order; upon substantial and final completion, the total cost of the design-build highway project with a breakdown of costs for design and construction; and such other measurements as specified by rule. The annual report immediately after final completion of the project shall state an assessment of the advantages and disadvantages of the design-build method of contracting for highway and bridge projects in comparison to the design-bid-build method of contracting and an assessment of whether the goals of the project in reducing costs and/or the time of completion of the project were met.

18. The commission shall give public notice of a request for qualifications in at least two public newspapers that are distributed wholly or in part in this state and at least one construction industry trade publication that is distributed nationally.

19. The commission shall publish its cost estimates of the design-build highway project award and the project completion date along with its public notice of a request for qualifications of the design-build project.

20. If the commission fails to receive at least two responsive submissions from design-builders considered qualified, submissions shall not be opened and it shall readvertise the project.

21. For any highway design-build project constructed under this section, the commission shall negotiate and reach agreements with affected railroads. Such agreements shall include clearance, safety, insurance, and indemnification provisions, but are not required to include provisions on right-of-way acquisitions.

**227.410. RABBI ERNEST I. JACOB MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF HIGHWAY 160 IN GREENE COUNTY.** — [The portion of U.S. Highway 160 in Greene County from the intersection of Farm Road 142 to the intersection of West Sunshine Street shall be designated the "Rabbi Abraham Joshua Heschel Memorial Highway".] **The portion of U.S. Highway 160 in Greene County from the intersection of West Mount Vernon Street to one-half mile south of the intersection of West Sunshine Street shall be designated the "Rabbi Ernest I. Jacob Memorial Highway".** The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs for such designation to be paid for by private donation.

**227.424. MISSOURI STATE HIGHWAY PATROL SERGEANT JOSEPH G. SCHUENGEL MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF I-40/64 IN ST. LOUIS COUNTY.** — The portion of Interstate 40/64 in St. Louis County from the Boone's Crossing overpass at mile marker 17.0 west to the Spirit of St. Louis Airport overpass at mile marker 13.8 shall be designated as the "Missouri State Highway Patrol Sergeant Joseph G. Schuengel Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs to be paid for by private donations.

**227.430. SFC WM. BRIAN WOODS, JR. MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF HIGHWAY 30 IN JEFFERSON COUNTY.** — The portion of Missouri Highway 30 from State Route NN north three miles to one tenth of a mile southwest of old Missouri 30 in Jefferson County shall be designated the "SFC Wm. Brian Woods, Jr. Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the cost to be paid for by private donations.

**238.202. DEFINITIONS.** — 1. As used in sections 238.200 to 238.275, the following terms mean:

- (1) "Board", the board of directors of a district;
- (2) "Commission", the Missouri highways and transportation commission;
- (3) "District", a transportation development district organized under sections 238.200 to 238.275;
- (4) "Local transportation authority", a county, city, town, village, county highway commission, special road district, interstate compact agency, or any local public authority or political subdivision having jurisdiction over any bridge, street, highway, dock, wharf, ferry, lake or river port, airport, railroad, light rail or other transit improvement or service;
- (5) "Project" includes any bridge, street, road, highway, access road, interchange, intersection, signing, signalization, parking lot, bus stop, station, garage, terminal, hangar, shelter, rest area, dock, wharf, lake or river port, airport, railroad, light rail, or [other mass transit] **public mass transportation system** and any similar or related improvement or infrastructure. **In the case of a district located in a home rule city with more than four hundred thousand inhabitants and located in more than one county, whose district boundaries are contained solely within that portion of such a home rule city that is contained within a county with a**

charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants, the term "project" shall also include the operation of a street car or other rail-based or fixed guideway public mass transportation system, and the revenue of such district may be used to pay for the design, construction, ownership and operation of such a street car or other rail-based or fixed guideway public mass transportation system, but not the operation of a bus system located within such district, by such district or such municipality, or by a local transportation authority having jurisdiction within such municipality;

(6) "Public mass transportation system", a transportation system owned or operated by a governmental or quasi-governmental entity, employing motor buses, rails, or any other means of conveyance, by whatsoever type of power, operated for public use in the conveyance of persons, mainly providing local transportation service within a municipality or a single metropolitan statistical area.

2. For the purposes of sections 11(c), 16 and 22 of article X of the Constitution of Missouri, section 137.073, and as used in sections 238.200 to 238.275, the following terms shall have the meanings given:

- (1) "Approval of the required majority" or "direct voter approval", a simple majority;
- (2) "Qualified electors", "qualified voters" or "voters":
  - (a) Within a proposed or established district, except for a district proposed under subsection 1 of section 238.207, any persons residing therein who have registered to vote pursuant to chapter 115; or
  - (b) Within a district proposed or established under subsection 1 of section 238.207 which has no persons residing therein who have registered to vote pursuant to chapter 115, the owners of record of all real property located in the district, who shall receive one vote per acre, provided that if a registered voter subsequent to the creation of the district becomes a resident within the district and obtains ownership of property within the district, such registered voter must elect whether to vote as an owner of real property or as a registered voter, which election once made cannot thereafter be changed;
- (3) "Registered voters", persons qualified and registered to vote pursuant to chapter 115.

**238.225. PROJECTS, SUBMISSION OF PLANS TO COMMISSION, APPROVAL — SUBMISSION TO LOCAL TRANSPORTATION AUTHORITY, WHEN — EXEMPTION. —** 1. Before construction or funding of any project the district shall submit the proposed project to the commission for its prior approval. If the commission by minute finds that the project will improve or is a necessary or desirable extension of the state highways and transportation system, the commission may preliminarily approve the project subject to the district providing plans and specifications for the proposed project and making any revisions in the plans and specifications required by the commission and the district and commission entering into a mutually satisfactory agreement regarding development and future maintenance of the project. After such preliminary approval, the district may impose and collect such taxes and assessments as may be included in the commission's preliminary approval. After the commission approves the final construction plans and specifications, the district shall obtain prior commission approval of any modification of such plans or specifications.

2. If the proposed project is not intended to be merged into the state highways and transportation system under the commission's jurisdiction, the district shall also submit the proposed project and proposed plans and specifications to the local transportation authority that will become the owner of the project for its prior approval.

3. In those instances where a local transportation authority is required to approve a project and the commission determines that it has no direct interest in that project, the commission may decline to consider the project. Approval of the project shall then vest exclusively with the local transportation authority subject to the district making any revisions in the plans and specifications

required by the local transportation authority and the district and the local transportation authority entering into a mutually satisfactory agreement regarding development and future maintenance of the project. After the local transportation authority approves the final construction plans and specifications, the district shall obtain prior approval of the local transportation authority before modifying such plans or specifications.

**4. Notwithstanding any provision of this section to the contrary, this section shall not apply to any district whose project is a public mass transportation system.**

**238.235. SALES TAX, CERTAIN DISTRICTS, EXEMPTIONS FROM TAX — ELECTION, BALLOT FORM — PROCEDURES FOR COLLECTION, DISTRIBUTION, USE — REPEAL OF TAX — NOT CONSIDERED ECONOMIC ACTIVITY TAX. — 1. (1)** Any transportation development district may by resolution impose a transportation development district sales tax on all retail sales made in such transportation development district which are subject to taxation pursuant to the provisions of sections 144.010 to 144.525, except such transportation development district sales tax shall not apply to the sale or use of motor vehicles, trailers, boats or outboard motors nor to all sales of electricity or electrical current, water and gas, natural or artificial, nor to sales of service to telephone subscribers, either local or long distance. Such transportation development district sales tax may be imposed for any transportation development purpose designated by the transportation development district in its ballot of submission to its qualified voters, except that no resolution enacted pursuant to the authority granted by this section shall be effective unless:

(a) The board of directors of the transportation development district submits to the qualified voters of the transportation development district a proposal to authorize the board of directors of the transportation development district to impose or increase the levy of an existing tax pursuant to the provisions of this section; or

(b) The voters approved the question certified by the petition filed pursuant to subsection 5 of section 238.207.

(2) If the transportation district submits to the qualified voters of the transportation development district a proposal to authorize the board of directors of the transportation development district to impose or increase the levy of an existing tax pursuant to the provisions of paragraph (a) of subdivision (1) of this subsection, the ballot of submission shall contain, but need not be limited to, the following language:

Shall the transportation development district of ..... (transportation development district's name) impose a transportation development district-wide sales tax at the rate of ..... (insert amount) for a period of ..... (insert number) years from the date on which such tax is first imposed for the purpose of ..... (insert transportation development purpose)?

☐ YES

☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the resolution and any amendments thereto shall be in effect. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the board of directors of the transportation development district shall have no power to impose the sales tax authorized by this section unless and until the board of directors of the transportation development district shall again have submitted another proposal to authorize it to impose the sales tax pursuant to the provisions of this section and such proposal is approved by a majority of the qualified voters voting thereon.

(3) The sales tax authorized by this section shall become effective on the first day of the second calendar quarter after the department of revenue receives notification of the tax.

(4) In each transportation development district in which a sales tax has been imposed in the manner provided by this section, every retailer shall add the tax imposed by the transportation development district pursuant to this section to the retailer's sale price, and when so added such tax

shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price.

(5) In order to permit sellers required to collect and report the sales tax authorized by this section to collect the amount required to be reported and remitted, but not to change the requirements of reporting or remitting tax or to serve as a levy of the tax, and in order to avoid fractions of pennies, the transportation development district may establish appropriate brackets which shall be used in the district imposing a tax pursuant to this section in lieu of those brackets provided in section 144.285.

(6) All revenue received by a transportation development district from the tax authorized by this section which has been designated for a certain transportation development purpose shall be deposited in a special trust fund and shall be used solely for such designated purpose. Upon the expiration of the period of years approved by the qualified voters pursuant to subdivision (2) of this subsection or if the tax authorized by this section is repealed pursuant to subsection 6 of this section, all funds remaining in the special trust fund shall continue to be used solely for such designated transportation development purpose. Any funds in such special trust fund which are not needed for current expenditures may be invested by the board of directors in accordance with applicable laws relating to the investment of other transportation development district funds.

(7) The sales tax may be imposed in increments of one-eighth of one percent, up to a maximum of one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within the transportation development district adopting such tax, if such property and services are subject to taxation by the state of Missouri pursuant to the provisions of sections 144.010 to 144.525, except such transportation development district sales tax shall not apply to the sale or use of motor vehicles, trailers, boats or outboard motors nor to public utilities. Any transportation development district sales tax imposed pursuant to this section shall be imposed at a rate that shall be uniform throughout the district.

2. The resolution imposing the sales tax pursuant to this section shall impose upon all sellers a tax for the privilege of engaging in the business of selling tangible personal property or rendering taxable services at retail to the extent and in the manner provided in sections 144.010 to 144.525, and the rules and regulations of the director of revenue issued pursuant thereto; except that the rate of the tax shall be the rate imposed by the resolution as the sales tax and the tax shall be reported and returned to and collected by the transportation development district.

3. On and after the effective date of any tax imposed pursuant to this section, the director of revenue shall perform all functions incident to the administration, collection, enforcement, and operation of the tax, and the director of revenue shall collect, in addition to all other sales taxes imposed by law, the additional tax authorized pursuant to this section. The tax imposed pursuant to this section and the taxes imposed pursuant to all other laws of the state of Missouri shall be collected together and reported upon such forms and pursuant to such administrative rules and regulations as may be prescribed by the director of revenue.

4. (1) All applicable provisions contained in sections 144.010 to 144.525, governing the state sales tax, sections 32.085 and 32.087 and section 32.057, the uniform confidentiality provision, shall apply to the collection of the tax imposed by this section, except as modified in this section.

(2) All exemptions granted to agencies of government, organizations, persons and to the sale of certain articles and items of tangible personal property and taxable services pursuant to the provisions of sections 144.010 to 144.525 are hereby made applicable to the imposition and collection of the tax imposed by this section.

(3) The same sales tax permit, exemption certificate and retail certificate required by sections 144.010 to 144.525 for the administration and collection of the state sales tax shall satisfy the requirements of this section, and no additional permit or exemption certificate or retail certificate shall be required; except that the transportation development district may prescribe a form of exemption certificate for an exemption from the tax imposed by this section.

(4) All discounts allowed the retailer pursuant to the provisions of the state sales tax laws for the collection of and for payment of taxes pursuant to such laws are hereby allowed and made applicable to any taxes collected pursuant to the provisions of this section.

(5) The penalties provided in section 32.057 and sections 144.010 to 144.525 for violation of those sections are hereby made applicable to violations of this section.

(6) For the purpose of a sales tax imposed by a resolution pursuant to this section, all retail sales except retail sales of motor vehicles shall be deemed to be consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or the retailer's agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. In the event a retailer has more than one place of business in this state which participates in the sale, the sale shall be deemed to be consummated at the place of business of the retailer where the initial order for the tangible personal property is taken, even though the order must be forwarded elsewhere for acceptance, approval of credit, shipment or billing. A sale by a retailer's employee shall be deemed to be consummated at the place of business from which the employee works.

5. All sales taxes received by the transportation development district shall be deposited by the director of revenue in a special fund to be expended for the purposes authorized in this section. The director of revenue shall keep accurate records of the amount of money which was collected pursuant to this section, and the records shall be open to the inspection of officers of each transportation development district and the general public.

6. (1) No transportation development district imposing a sales tax pursuant to this section may repeal or amend such sales tax unless such repeal or amendment will not impair the district's ability to repay any liabilities which it has incurred, money which it has borrowed or revenue bonds, notes or other obligations which it has issued or which have been issued by the commission or any local transportation authority to finance any project or projects.

(2) Whenever the board of directors of any transportation development district in which a transportation development sales tax has been imposed in the manner provided by this section receives a petition, signed by ten percent of the qualified voters calling for an election to repeal such transportation development sales tax, the board of directors shall, if such repeal will not impair the district's ability to repay any liabilities which it has incurred, money which it has borrowed or revenue bonds, notes or other obligations which it has issued or which have been issued by the commission or any local transportation authority to finance any project or projects, submit to the qualified voters of such transportation development district a proposal to repeal the transportation development sales tax imposed pursuant to the provisions of this section. If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal to repeal the transportation development sales tax, then the resolution imposing the transportation development sales tax, along with any amendments thereto, is repealed. If a majority of the votes cast by the qualified voters voting thereon are opposed to the proposal to repeal the transportation development sales tax, then the ordinance or resolution imposing the transportation development sales tax, along with any amendments thereto, shall remain in effect.

**7. Notwithstanding any provision of sections 99.800 to 99.865, and this section to the contrary, the sales tax imposed by a district whose project is a public mass transportation system shall not be considered economic activity taxes as such term is defined under sections 99.805 and 99.918 and shall not be subject to allocation under the provisions of subsection 3 of section 99.845, or subsection 4 of section 99.957.**

**249.425. METROPOLITAN SEWER DISTRICT, DESIGN-BUILD CONTRACTS AUTHORIZED, PROCEDURE — EXEMPTION. — 1. As used in this section, the following terms mean:**

(1) "Design-build", a project for which the design and construction services are furnished under one contract;



(2) "Design-build contract", a contract between a sewer district and a design-build contractor to furnish the architecture, engineering, and related design services, and the labor, materials, and other construction services required for a specific construction project;

(3) "Design-build contractor", any individual, partnership, joint venture, corporation, or other legal entity that furnishes architecture or engineering services and construction services either directly or through subcontracts;

(4) "Design-build project", the design, construction, alteration, addition, remodeling, or improvement of any sewer district buildings or facilities under contract with a sewer district. Contracts for design-build projects that involve the construction, replacement or rehabilitation of a sewer district pump station or any other project that is located solely on sewer district property, such that in all cases, the project must exceed an expenditure of one million dollars. Design-build projects shall not include projects built on easements or rights-of-way dedicated to the sewer district involving open-cut sewer lines or rehabilitation of sewer district sewer lines;

(5) "Design criteria package", performance-oriented specifications for the design-build project sufficient to permit a design-build contractor to prepare a response to the sewer district's request for proposals for a design-build project, which may include preliminary designs for the project or portions thereof;

(6) "Sewer district", any metropolitan sewer district established under section 30(a), article VI, Constitution of Missouri.

2. (1) Notwithstanding any other provision of law to the contrary, any sewer district is authorized to enter into design-build contracts for design-build projects that exceed an expenditure of one million dollars.

(2) In using a design-build contract, the sewer district shall establish a written procedure by rule for prequalifying design-build contractors before such design-build contractors will be allowed to make a proposal on the project.

(3) The sewer district shall adopt procedures for:

(a) The prequalification review team;

(b) Specifications for the design criteria package;

(c) The method of advertising, receiving, and evaluating proposals from design-build contractors;

(d) The criteria for awarding the design-build contract based on the design criteria package and a separate proposal stating the cost of construction; and

(e) Other methods, procedures, and criteria necessary to administer this section.

(4) The sewer district is authorized to issue a request for proposals to a maximum of five design-build contractors who are prequalified in accordance with this section.

(5) The sewer district may require approval of any person performing subcontract work on the design-build project including, but not limited to, those furnishing design services, labor, materials or equipment.

3. (1) Before the prequalification process specified in this section, the sewer district shall publicly advertise, once a week for two consecutive weeks, in a newspaper of general circulation, qualified under chapter 493, located within the cities located in the sewer district, or if there be no such newspaper, in a qualified newspaper of general circulation in the county, or if there be no such newspaper, in a qualified newspaper of general circulation in an adjoining county, and may advertise in business, trade, or minority newspapers, for qualification submissions on said design-build project.

(2) If the sewer district fails to receive at least two responsive submissions from prequalified design-build contractors, submissions shall not be opened and the sewer shall readvertise the project.

(3) The sewer district shall have the right to reject any and all submissions and proposals.

(4) The proposals from prequalified design-build contractors shall be submitted sealed and in writing, to be opened publicly at the time and place of the sewer district's choosing. Technical proposals and qualifications submissions shall be submitted separately from any cost proposals. No cost proposal shall be opened until the technical proposals and qualifications submissions are first opened, evaluated, and ranked in accordance with the criteria identified by the sewer district in the request for proposals.

(5) The design-build contract shall be awarded to the design-build contractor whose proposal represents the best overall value to the sewer district in terms of quality, technical skill, schedule, and cost.

(6) No proposal shall be entertained by the sewer district that is not made in accordance with the request for proposals furnished by the sewer district.

4. (1) The payment bond requirements of section 107.170 shall apply to the design-build project. All persons furnishing design services shall be deemed to be covered by the payment bond the same as any person furnishing labor or materials; however, the performance bond for the design-build contractor does not need to cover the design services as long as the design-build contractor or its subcontractors providing design services carry professional liability insurance in an amount established by the sewer district in the request for proposals.

(2) Any person or firm providing architectural, engineering, or land surveying services for the design-build contractor on the design-build project shall be duly licensed or authorized in this state to provide such services as required by chapter 327.

5. (1) A sewer district planning a design-build project shall retain an architect or engineer, as appropriate to the project type, under sections 8.285 to 8.291, to assist with programming, site selection, master plan, the design criteria package, preparation of the request for proposals, prequalifying design-build contractors, evaluation of proposals, and preparation of forms necessary to award the design-build contract. The sewer district shall also retain that same architect or engineer or another to perform contract administration functions on behalf of the sewer district during the construction phase and after project completion. If the sewer district has an architect or engineer capable of fulfilling the functions described in this section, the sewer district is exempt from being required to retain another such professional.

(2) Any architect or engineer who is retained by a sewer district under this section shall be ineligible to act as the design-build contractor, or to participate as part of the design-build contractor's team as a subcontractor, joint venturer, partner, or otherwise for the same design-build project for which the architect or engineer was hired by the sewer district.

6. Under section 327.465, any design-build contractor that enters into a design-build contract for a sewer district is exempt from the requirement that such person or entity hold a certificate of registration or such corporation hold a certificate of authority if the architectural, engineering, or land surveying services to be performed under the contract are performed through subcontracts with properly licensed and authorized persons or entities, and not performed by the design-build contractor or its own employees.

**319.016. NOTIFICATION CENTER PARTICIPANT, COMMISSION NOT REQUIRED TO BE, WHEN.** — Notwithstanding any provision of sections 319.010 to 319.050 to the contrary, the state highways and transportation commission shall not be required to be a notification center participant after December 31, [2011] **2014**, but nothing in this section shall prohibit the commission from voluntarily choosing to be a notification center participant after that date.

**319.025. EXCAVATOR MUST GIVE NOTICE AND OBTAIN INFORMATION, WHEN, HOW — NOTICE TO NOTIFICATION CENTER, WHEN — CLARIFICATION OF MARKINGS, RESPONSE — PROJECT PLANS PROVIDED, WHEN — PERMIT FOR HIGHWAY EXCAVATION REQUIRED.** — 1. Except as provided in subsection 3 of section 319.030 and in section 319.050, a person shall not make or begin any excavation in any public street, road or alley, right-of-way dedicated to the public use or utility easement of record or within any private street or private property without first giving notice to the notification center and obtaining information concerning the possible location of any underground facilities which may be affected by said excavation from underground facility owners whose names appear on the current list of participants in the notification center and who were communicated to the excavator as notification center participants who would be informed of the excavation notice. Prior to January 1, 2003, a person shall not make or begin any excavation pursuant to this subsection without also making notice to owners or operators of underground facilities which do not participate in a notification center and whose name appears on the current list of the recorder of deeds in and for the county in which the excavation is to occur. Beginning January 1, 2003, notice to the notification center of proposed excavation shall be deemed notice to all owners and operators of underground facilities. The notice referred to in this section shall comply with the provisions of section 319.026. [As part of the process to request the locating of underground facilities and having them properly marked, the notification center shall ask excavators to identify whether or not the proposed excavation will be on a public right-of-way or easement dedicated to public use for vehicular traffic.]

2. An excavator's notice to owners and operators of underground facilities participating in the notification center pursuant to section 319.022 is ineffective for purposes of subsection 1 of this section unless given to such notification center. Prior to January 1, 2003, the notice required by subsection 1 of this section shall be given directly to owners or operators of underground facilities who are not represented by a notification center.

3. Notification center participants shall be relieved of the responsibility to respond to a notice of intent to excavate received directly from the person intending to commence an excavation, except for requests for clarification of markings through on-site meetings as provided in subsection 1 of section 319.030 and requests for locations at the time of an emergency as provided by section 319.050.

4. If the owner or operator notifies the excavator that the area of excavation cannot be determined from the description provided by the excavator through the notice required by this section, the excavator shall provide clarification of the area of excavation by markings or by providing project plans to the owner or operator, or by meeting on the site of the excavation with representatives of the owner or operator as provided by subsection 1 of section 319.030.

5. Notwithstanding the provisions of this section to the contrary, a person shall not make or begin any excavation in any state highway, or on the right-of-way of any state highway, without first obtaining a permit from the state highways and transportation commission pursuant to section 227.240, provided however, the provisions of this subsection shall not apply to railroad right-of-way owned or operated by a railroad.

Approved July 7, 2011

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SB 180 [SB 180]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**Designates certain state recognized days, weeks, and months.**

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AN ACT to amend chapter 9, RSMo, by adding thereto two new sections relating to bicycling state holidays.

SECTION

- A. Enacting clause.
- 9.164. Walk & bike to school month and day designated.
- 9.165. Missouri bicycle month and day designation

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Chapter 9, RSMo, is amended by adding thereto two new sections, to be known as sections 9.164 and 9.165, to read as follows:

**9.164. WALK & BIKE TO SCHOOL MONTH AND DAY DESIGNATED.** — The month of October shall be set apart as "Walk & Bike to School Month" and the first Wednesday of October shall be set apart as "Walk & Bike to School Day" in Missouri to improve the safety of students walking and bicycling to school, encourage more children to safely walk and bicycle to school, and promote the benefits of walking and cycling to school, including physical activity and better student health and physical fitness, improved academics, reduced congestion and pollution, and more livable communities.

**9.165. MISSOURI BICYCLE MONTH AND DAY DESIGNATION** — The month of May shall be set apart as "Missouri Bicycle Month", the third Friday of May shall be set apart as "Bike to Work Day", and the week of bike to work day shall be set apart as "Bike to Work Week" in Missouri to promote bicycling as a viable and environmentally sound form of transportation and a source of healthful recreation, promote bicycle safety and encourage all users to safely share the road, promote Missouri as a great destination for bicycle tourism, and promote the benefits of bicycling for health, physical fitness, family togetherness, economic development, and creating a vibrant, healthy, and livable state.

Approved July 5, 2011

SB 187 [HCS SB 187]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**Modifies the laws regarding nuisances and junkyards.**

AN ACT to repeal sections 67.402, 226.720, and 537.296, RSMo, and to enact in lieu thereof three new sections relating to nuisance actions, with penalty provisions.

SECTION

- A. Enacting clause.
- 67.402. Abatement of nuisance in certain counties (Andrew, Boone, Buchanan, Cass, Cole, Dade, Jasper, Jefferson, Livingston, Newton) — ordinance requirements.
- 226.720. Unscreened junkyards near state and county roads prohibited — penalty.
- 537.296. Private nuisance — definitions — exclusive compensatory damages for agricultural nuisances, subsequent actions, effect of — standing — action in excess of one million dollars, court or jury shall visit property — copy of final judgment to be filed.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 67.402, 226.720, and 537.296, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 67.402, 226.720, and 537.296, to read as follows:

**67.402. ABATEMENT OF NUISANCE IN CERTAIN COUNTIES (ANDREW, BOONE, BUCHANAN, CASS, COLE, DADE, JASPER, JEFFERSON, LIVINGSTON, NEWTON) — ORDINANCE REQUIREMENTS.** — 1. The governing body of the following counties may enact nuisance abatement ordinances as provided in this section:

(1) Any county of the first classification with more than one hundred thirty-five thousand four hundred but [less] **fewer** than one hundred thirty-five thousand five hundred inhabitants[.];

(2) Any county of the first classification with more than seventy-one thousand three hundred but [less] **fewer** than seventy-one thousand four hundred inhabitants[, and];

(3) Any county of the first classification without a charter form of government and with more than one hundred ninety-eight thousand but [less] **fewer** than one hundred ninety-nine thousand two hundred inhabitants;

(4) Any county of the first classification with more than eighty-five thousand nine hundred but fewer than eighty-six thousand inhabitants;

(5) Any county of the third classification without a township form of government and with more than sixteen thousand four hundred but fewer than sixteen thousand five hundred inhabitants;

(6) Any county of the third classification with a township form of government and with more than fourteen thousand five hundred but fewer than fourteen thousand six hundred inhabitants;

(7) Any county of the first classification with more than eighty-two thousand but fewer than eighty-two thousand one hundred inhabitants;

(8) Any county of the first classification with more than one hundred four thousand six hundred but fewer than one hundred four thousand seven hundred inhabitants;

(9) Any county of the third classification with a township form of government and with more than seven thousand nine hundred but fewer than eight thousand inhabitants; and

(10) Any county of the second classification with more than fifty-two thousand six hundred but fewer than fifty-two thousand seven hundred inhabitants.

2. The governing body of any county described in subsection 1 of this section may enact ordinances to provide for the abatement of a condition of any lot or land that has the presence of rubbish and trash, lumber, bricks, tin, steel, parts of derelict motorcycles, derelict cars, derelict trucks, derelict construction equipment, derelict appliances, broken furniture, or overgrown or noxious weeds in residential subdivisions or districts which may endanger public safety or which is unhealthy or unsafe and declared to be a public nuisance.

[2.] 3. Any ordinance enacted pursuant to this section shall:

(1) Set forth those conditions which constitute a nuisance and which are detrimental to the health, safety, or welfare of the residents of the county;

(2) Provide for duties of inspectors with regard to those conditions which may be declared a nuisance, and shall provide for duties of the building commissioner or designated officer or officers to supervise all inspectors and to hold hearings regarding such property;

(3) Provide for service of adequate notice of the declaration of nuisance, which notice shall specify that the nuisance is to be abated, listing a reasonable time for commencement, and may provide that such notice be served either by personal service or by certified mail, return receipt requested, but if service cannot be had by either of these modes of service, then service may be had by publication. The ordinances shall further provide that the owner, occupant, lessee, mortgagee,

agent, and all other persons having an interest in the property as shown by the land records of the recorder of deeds of the county wherein the property is located shall be made parties;

(4) Provide that upon failure to commence work of abating the nuisance within the time specified or upon failure to proceed continuously with the work without unnecessary delay, the building commissioner or designated officer or officers shall call and have a full and adequate hearing upon the matter before the county commission, giving the affected parties at least ten days' written notice of the hearing. Any party may be represented by counsel, and all parties shall have an opportunity to be heard. After the hearings, if evidence supports a finding that the property is a nuisance or detrimental to the health, safety, or welfare of the residents of the county, the county commission shall issue an order making specific findings of fact, based upon competent and substantial evidence, which shows the property to be a nuisance and detrimental to the health, safety, or welfare of the residents of the county and ordering the nuisance abated. If the evidence does not support a finding that the property is a nuisance or detrimental to the health, safety, or welfare of the residents of the county, no order shall be issued.

[3.] 4. Any ordinance authorized by this section may provide that if the owner fails to begin abating the nuisance within a specific time which shall not be longer than seven days of receiving notice that the nuisance has been ordered removed, the building commissioner or designated officer shall cause the condition which constitutes the nuisance to be removed. If the building commissioner or designated officer causes such condition to be removed or abated, the cost of such removal shall be certified to the county clerk or officer in charge of finance who shall cause the certified cost to be included in a special tax bill or added to the annual real estate tax bill, at the county collector's option, for the property and the certified cost shall be collected by the county collector in the same manner and procedure for collecting real estate taxes. If the certified cost is not paid, the tax bill shall be considered delinquent, and the collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a lien on the property until paid.

**5. Nothing in this section authorizes any county to enact nuisance abatement ordinances that provide for the abatement of any condition relating to agricultural structures or agricultural operations, including but not limited to the raising of livestock or row crops.**

**6. No county of the first, second, third, or fourth classification shall have the power to adopt any ordinance, resolution, or regulation under this section governing any railroad company regulated by the Federal Railroad Administration.**

**226.720. UNSCREENED JUNKYARDS NEAR STATE AND COUNTY ROADS PROHIBITED — PENALTY.** — 1. No junkyard shall be established, maintained or operated within two hundred feet of any other state or county road in this state unless such junkyard is **fully** screened from the **state or county** road by a **permanent** tight board or other screen fence not less than ten feet high, or of sufficient height to **fully** screen the wrecked or disabled automobiles or junk kept therein from the view of persons using the **state or county** road on foot or in vehicles in the ordinary manner, except that nothing in this section shall apply to any junkyard located in any incorporated town, village or city. The provisions of sections 226.650 through 226.710 shall not apply to this section except the definitions appearing in section 226.660.

2. Any person, firm or corporation who establishes, conducts, owns, maintains or operates a junkyard without complying with the provisions of this section shall, [on] **upon their first conviction, be guilty of a class C misdemeanor and shall be ordered to either remove the junk from the property or build a fence as described in this section. Any person, firm, or corporation who establishes, conducts, owns, maintains, or operates a junkyard without complying with the provisions of this section shall, upon their second or subsequent**

violation, be guilty of a class A misdemeanor and shall be ordered to either remove the junk from the property or build a fence as described in this section.

**537.296. PRIVATE NUISANCE — DEFINITIONS — EXCLUSIVE COMPENSATORY DAMAGES FOR AGRICULTURAL NUISANCES, SUBSEQUENT ACTIONS, EFFECT OF — STANDING — ACTION IN EXCESS OF ONE MILLION DOLLARS, COURT OR JURY SHALL VISIT PROPERTY — COPY OF FINAL JUDGMENT TO BE FILED. — 1. As used in this section, the following terms mean:**

- (1) "Claimant", a person who asserts a claim of private nuisance;
- (2) "Fair market value", the price that a buyer who is willing but not compelled to buy would pay and a seller who is willing but not compelled to sell would accept for property;
- (3) "Fair rental value", the price a lessee who is willing but not compelled to lease would pay and a lessor who is willing but not compelled to lease would accept;
- (4) "Ownership interest", holding legal or equitable title to property in fee or, in a life, or in a leasehold interest;
- (5) "Possessory interest", lawfully possessing property but does not include mere occupancy;
- (6) "Property", real property.

2. The exclusive compensatory damages that may be awarded to a claimant for a private nuisance where the alleged nuisance emanates from property primarily used for crop or animal production purposes shall be as follows:

- (1) If the nuisance is a permanent nuisance, compensatory damages shall be measured by the reduction in the fair market value of the claimant's property caused by the nuisance, but not to exceed the fair market value of the property;
- (2) If the nuisance is a temporary nuisance, compensatory damages shall be measured by the diminution in the fair rental value of the claimant's property caused by the nuisance;
- (3) If the nuisance is shown by objective and documented medical evidence to have caused a medical condition to claimant, compensatory damages arising from that medical condition may be awarded in addition to the exclusive damages permitted under subdivisions (1) and (2) of this subsection.

3. Concerning a private nuisance where the alleged nuisance emanates from property primarily used for crop or animal production purposes, if any claimant or claimant's successor with ownership interest brings any subsequent claim against the same defendant or defendant's successors for temporary nuisance related to a similar activity or use of the defendant's property, and such activity or use of property is deemed a nuisance, the activity or use of property at issue shall be considered a permanent nuisance and such claimant and claimant's successors shall be limited to and bound by the remedies available for a permanent nuisance.

4. If a defendant in a private nuisance case where the nuisance is alleged to emanate from property used for crop or animal production purposes demonstrates a good faith effort to abate a condition that is determined to constitute a nuisance, the nuisance shall be deemed to be not capable of abatement. Substantial compliance with a court order regarding such property shall constitute such a good faith effort as a matter of law.

5. Concerning a private nuisance where the alleged nuisance emanates from property primarily used for crop or animal production purposes, no person shall have standing to bring an action for private nuisance unless the person has an ownership interest in the property alleged to be affected by the nuisance.

6. Nothing in this section shall:

(1) Prohibit a person from recovering damages for annoyance, discomfort, sickness, or emotional distress; provided that such damages are awarded on the basis of other causes of action independent of a claim of nuisance; or

(2) Prohibit the recovery of any damages, direct, consequential, or otherwise, resulting from or relating to crop destruction, crop damage, contamination of the seed supply, or a diminution of crop value resulting from contamination of the seed or grain supply, herbicide drift, or other diminution of crop value.

7. If any party requests the court or jury visit the property alleged to be affected by the nuisance in an action for private nuisance where the amount in controversy exceeds one million dollars, the court or jury shall visit the property.

8. A copy of the final judgment in any action alleging a private nuisance shall be filed with the recorder of deeds in the county in which the final judgment was issued and shall operate as notice to any purchaser of the claimant's property that the property was related to a previous claim for nuisance.

Approved May 11, 2011

## SB 213 [HCS SCS SB 213]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**Modifies what information is required in a petition for guardianship for a minor or an incapacitated person and adopts the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act.**

AN ACT to repeal sections 194.115, 475.060, and 475.061, RSMo, and to enact in lieu thereof twenty-seven new sections relating to guardianship, with a penalty provision.

### SECTION

A. Enacting clause.

194.115. Autopsy — consent required — penalty for violation — availability of report, to whom.

475.060. Application for guardianship — petition for guardianship requirements — incapacitated persons, petition requirements.

475.061. Application for conservatorship — may combine with petition for guardian of person.

475.501. Short title.

475.502. Definitions.

475.503. International application of act.

475.504. Communication between courts.

475.505. Cooperation between courts.

475.506. Taking testimony in another state.

475.521. Definitions — significant connection factors.

475.522. Exclusive basis.

475.523. Jurisdiction.

475.524. Special jurisdiction.

475.525. Exclusive and continuing jurisdiction.

475.526. Appropriate forum.

475.527. Jurisdiction declined by reason of conduct.

475.528. Notice of proceeding.

475.529. Proceedings in more than one state.

475.531. Transfer of guardianship or conservatorship to another state.

475.532. Accepting guardianship or conservatorship transferred from another state.

475.541. Registration of guardianship orders.

475.542. Registration of protective orders.

475.543. Effect of registration.

475.544. State law applicability.

475.551. Uniformity of application and construction.



475.552. Relation to Electronic Signatures in Global and National Commerce Act.  
475.555. Effective date.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 194.115, 475.060, and 475.061, RSMo, are repealed and twenty-seven new sections enacted in lieu thereof, to be known as sections 194.115, 475.060, 475.061, 475.501, 475.502, 475.503, 475.504, 475.505, 475.506, 475.521, 475.522, 475.523, 475.524, 475.525, 475.526, 475.527, 475.528, 475.529, 475.531, 475.532, 475.541, 475.542, 475.543, 475.544, 475.551, 475.552, and 475.555, to read as follows:

**194.115. AUTOPSY — CONSENT REQUIRED — PENALTY FOR VIOLATION — AVAILABILITY OF REPORT, TO WHOM.** — 1. Except when ordered or directed by a public officer, court of record or agency authorized by law to order an autopsy or postmortem examination, it is unlawful for any licensed physician and surgeon to perform an autopsy or postmortem examination upon the remains of any person without the consent of one of the following:

- (1) The deceased, if in writing, and duly signed and acknowledged prior to his death; or
- (2) A person designated by the deceased in a durable power of attorney that expressly refers to the giving of consent to an autopsy or postmortem examination; or
- (3) The surviving spouse; or
- (4) If the surviving spouse through injury, illness or mental capacity is incapable of giving his or her consent, or if the surviving spouse is unknown, or his or her address unknown or beyond the boundaries of the United States, or if he or she has been separated and living apart from the deceased, or if there is no surviving spouse, then any surviving child, parent, brother or sister, in the order named; or
- (5) If no surviving child, parent, brother or sister can be contacted by telephone or telegraph, then any other relative, by blood or marriage; or
- (6) If there are no relatives who assume the right to control the disposition of the remains, then any person, friend or friends who assume such responsibility.

**2. If an individual through injury, illness, or mental capacity is incapable of giving consent prior to his or her death as contemplated by subdivision (1) of subsection 1 of this section, then any child, parent, brother or sister of said individual may petition the court to order that an autopsy or postmortem examination shall be performed upon the remains of said individual following his or her passing.**

**3.** If the surviving spouse, child, parent, brother or sister hereinabove mentioned is under the age of twenty-one years, but over the age of sixteen years, such minor shall be deemed of age for the purpose of granting the consent hereinabove required.

[3.] **4.** Any licensed physician and surgeon performing an autopsy or postmortem examination with the consent of any of the persons enumerated in subsection 1 of this section shall use his judgment as to the scope and extent to be performed, and shall be in no way liable for such action.

[4.] **5.** It is unlawful for any licensed physician, unless specifically authorized by law, to hold a postmortem examination on any unclaimed dead without the consent required by section 194.170.

[5.] **6.** Any person not a licensed physician performing an autopsy or any licensed physician performing an autopsy without the authorization herein required shall upon conviction be adjudged guilty of a misdemeanor, and subject to the penalty provided for in section 194.180.

[6.] **7.** If an autopsy is performed on a deceased patient and an autopsy report is prepared, such report shall be made available upon request to the personal representative or administrator of

the estate of the deceased, the surviving spouse, any surviving child, parent, brother or sister of the deceased.

**475.060. APPLICATION FOR GUARDIANSHIP — PETITION FOR GUARDIANSHIP REQUIREMENTS — INCAPACITATED PERSONS, PETITION REQUIREMENTS. — 1.** Any person may file a petition for the appointment of himself **or herself** or some other qualified person as guardian of a minor [or guardian of an incapacitated person]. Such petition shall state:

(1) The name, age, domicile, actual place of residence and post office address of the minor [or incapacitated person] if known and if any of these facts is unknown, the efforts made to ascertain that fact;

(2) The estimated value of [his] **the minor's** real and personal property, **and the location and value of any real property owned by the minor outside of this state;**

(3) If the minor [or incapacitated person] has no domicile or place of residence in this state, the county in which the property or major part thereof of the minor [or incapacitated person] is located;

(4) The name and address of the parents of the minor [or incapacitated person] and whether they are living or dead;

(5) The name and address of the spouse, and the names, ages and addresses of all living children of the minor [or incapacitated person];

(6) The name and address of the person having custody of the person of the minor [or incapacitated person];

(7) The name and address of any guardian of the person or conservator of the estate of the minor [or incapacitated person] appointed in this or any other state;

(8) If appointment is sought for a natural person, other than the public administrator, the names and addresses of wards and disabled persons for whom such person is already guardian or conservator;

(9) [In the case of an incapacitated person, the fact that the person for whom guardianship is sought is unable by reason of some specified physical or mental condition to receive and evaluate information or to communicate decisions to such an extent that the person lacks capacity to meet essential requirements for food, clothing, shelter, safety or other care such that serious physical injury, illness or disease is likely to occur] **The name and address of the trustees and the purpose of any trust of which the minor is a qualified beneficiary;**

(10) The reasons why the appointment of a guardian is sought;

(11) A petition for the appointment of a guardian of a minor may be filed for the sole and specific purpose of school registration or medical insurance coverage. Such a petition shall clearly set out this limited request and shall not be combined with a petition for conservatorship.

**2. Any person may file a petition for the appointment of himself or herself or some other qualified person as guardian of an incapacitated person. Such petition shall state:**

(1) **If known, the name, age, domicile, actual place of residence, and post office address of the alleged incapacitated person, and for the period of three years before the filing of the petition, the most recent addresses, up to three, at which the alleged incapacitated person lived prior to the most recent address, and if any of these facts is unknown, the efforts made to ascertain that fact. In the case of a petition filed by a public official in his or her official capacity, the information required by this subdivision need only be supplied to the extent it is reasonably available to the petitioner;**

(2) **The estimated value of the alleged incapacitated person's real and personal property, and the location and value of any real property owned by the alleged incapacitated person outside of this state;**

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(3) If the alleged incapacitated person has no domicile or place of residence in this state, the county in which the property or major part thereof of the alleged incapacitated person is located;

(4) The name and address of the parents of the alleged incapacitated person and whether they are living or dead;

(5) The name and address of the spouse, the names, ages, and addresses of all living children of the alleged incapacitated person, the names and addresses of the alleged incapacitated person's closest known relatives, and the names and relationship, if known, of any adults living with the alleged incapacitated person; if no spouse, adult child, or parent is listed, the names and addresses of the siblings and children of deceased siblings of the alleged incapacitated person; the name and address of any agent appointed by the alleged incapacitated person in any durable power of attorney, and of the presently acting trustees of any trust of which the alleged incapacitated person is the grantor or is a qualified beneficiary or is or was the trustee or co-trustee and the purpose of the power of attorney or trust;

(6) The name and address of the person having custody of the person of the alleged incapacitated person;

(7) The name and address of any guardian of the person or conservator of the estate of the alleged incapacitated person appointed in this or any other state;

(8) If appointment is sought for a natural person, other than the public administrator, the names and addresses of wards and disabled persons for whom such person is already guardian or conservator;

(9) The fact that the person for whom guardianship is sought is unable by reason of some specified physical or mental condition to receive and evaluate information or to communicate decisions to such an extent that the person lacks capacity to meet essential requirements for food, clothing, shelter, safety, or other care such that serious physical injury, illness, or disease is likely to occur;

(10) The reasons why the appointment of a guardian is sought.

**475.061. APPLICATION FOR CONSERVATORSHIP — MAY COMBINE WITH PETITION FOR GUARDIAN OF PERSON.** — 1. Any person may file a petition in the probate division of the circuit court of the county of proper venue for the appointment of himself or some other qualified person as conservator of the estate of a minor or disabled person. The petition shall contain the same allegations as are set forth in subdivisions (1), (8), and (10) of subsection 2 of section 475.060 with respect to the appointment of a guardian for an incapacitated person and, in addition thereto, an allegation that the respondent is unable by reason of some specific physical or mental condition to receive and evaluate information or to communicate decisions to such an extent that the respondent lacks ability to manage his financial resources or that the respondent is under the age of eighteen years.

2. A petition for appointment of a conservator or limited conservator of the estate may be combined with a petition for appointment of a guardian or limited guardian of the person. In such a combined petition allegations need not be repeated.

## **ARTICLE 1 GENERAL PROVISIONS**

**475.501. SHORT TITLE.** — Sections 475.501 to 475.555 may be cited as the "Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act".

**475.502. DEFINITIONS.** — Notwithstanding the definitions in section 475.010, when used in sections 475.501 to 475.555, the following terms mean:

- (1) "Adult", an individual who has attained eighteen years of age;
- (2) "Conservator", a person appointed by the court to administer the property of an adult, including a person appointed under this chapter;
- (3) "Guardian", a person appointed by the court to make decisions regarding the person of an adult, including a person appointed under this chapter;
- (4) "Guardianship order", an order appointing a guardian;
- (5) "Guardianship proceeding", a proceeding in which an order for the appointment of a guardian is sought or has been issued;
- (6) "Incapacitated person", an adult for whom a guardian has been appointed;
- (7) "Party", the respondent, petitioner, guardian, conservator, or any other person allowed by the court to participate in a guardianship or protective proceeding;
- (8) "Person", except in the term "incapacitated person" or "protected person", an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity;
- (9) "Protected person", an adult for whom a protective order has been issued;
- (10) "Protective order", an order appointing a conservator or other order related to management of an adult's property;
- (11) "Protective proceeding", a judicial proceeding in which a protective order is sought or has been issued;
- (12) "Record", information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;
- (13) "Respondent", an adult for whom a protective order or the appointment of a guardian is sought;
- (14) "State", a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.

**475.503. INTERNATIONAL APPLICATION OF ACT.** — A court of this state may treat a foreign country as if it were a state for the purpose of applying this article and articles 2, 3, and 5.

**475.504. COMMUNICATION BETWEEN COURTS.** — 1. A court of this state may communicate with a court in another state concerning a proceeding arising under sections 475.501 to 475.555. The court may allow the parties to participate in the communication. Except as otherwise provided in subsection 2 of this section, the court shall make a record of the communication. The record may be limited to the fact that the communication occurred.

2. Courts may communicate concerning schedules, calendars, court records, and other administrative matters without making a record.

**475.505. COOPERATION BETWEEN COURTS.** — 1. In a guardianship or protective proceeding in this state, a court of this state may request the appropriate court of another state to:

- (1) Hold an evidentiary hearing;
  - (2) Order a person in that state to produce evidence or give testimony pursuant to procedures of that state;
  - (3) Order that an evaluation or assessment be made of the respondent;
  - (4) Order any appropriate investigation of a person involved in a proceeding;
  - (5) Forward to the court of this state a certified copy of the transcript or other record of a hearing under subdivision (1) of subsection 1 of this section or any other proceeding,
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any evidence otherwise produced under subdivision (2) of subsection 1 of this section, and any evaluation or assessment prepared in compliance with an order under subdivisions (3) and (4) of subsection 1 of this section;

(6) Issue any order necessary to assure the appearance in the proceeding of a person whose presence is necessary for the court to make a determination, including the respondent or the incapacitated or protected person;

(7) Issue an order authorizing the release of medical, financial, criminal, or other relevant information in that state, including protected health information as defined in 45 CFR 160.103, as amended.

2. If a court of another state in which a guardianship or protective proceeding is pending requests assistance of the kind provided in subsection 1 of this section, a court of this state has jurisdiction for the limited purpose of granting the request or making reasonable efforts to comply with the request.

475.506. TAKING TESTIMONY IN ANOTHER STATE. — 1. In a guardianship or protective proceeding, in addition to other procedures that may be available, testimony of a witness who is located in another state may be offered by deposition or other means allowable in this state for testimony taken in another state. The court on its own motion may order that the testimony of a witness be taken in another state and may prescribe the manner in which and the terms upon which the testimony is to be taken.

2. In a guardianship or protective proceeding, a court in this state may permit a witness located in another state to be deposed or to testify by telephone or audiovisual or other electronic means. A court of this state shall cooperate with the court of the other state in designating an appropriate location for the deposition or testimony.

3. Documentary evidence transmitted from another state to a court of this state by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the best evidence rule.

## ARTICLE 2 JURISDICTION

475.521. DEFINITIONS—SIGNIFICANT CONNECTION FACTORS. — 1. In this article, the following terms mean:

(1) "Emergency", a circumstance that likely will result in substantial harm to a respondent's health, safety, or welfare, and for which the appointment of a guardian is necessary because no other person has authority and is willing to act on the respondent's behalf;

(2) "Home state", the state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months immediately before the filing of a petition for a protective order or the appointment of a guardian; or if none, the state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months ending within the six months prior to the filing of the petition;

(3) "Significant-connection state", a state, other than the home state, with which a respondent has a significant connection other than mere physical presence and in which substantial evidence concerning the respondent is available.

2. In determining under section 475.523 and subsection 5 of section 475.531 whether a respondent has a significant connection with a particular state, the court shall consider:

(1) The location of the respondent's family and other persons required to be notified of the guardianship or protective proceeding;

- (2) The length of time the respondent at any time was physically present in the state and the duration of any absence;
- (3) The location of the respondent's property; and
- (4) The extent to which the respondent has ties to the state such as voting registration, state or local tax return filing, vehicle registration, driver's license, social relationship, and receipt of services.

**475.522. EXCLUSIVE BASIS.** — This article provides the exclusive jurisdictional basis for a court of this state to appoint a guardian or issue a protective order for an adult.

**475.523. JURISDICTION.** — A court of this state has jurisdiction to appoint a guardian or issue a protective order for a respondent if:

- (1) This state is the respondent's home state;
- (2) On the date a petition is filed, this state is a significant-connection state and:
  - (a) The respondent does not have a home state or a court of the respondent's home state has declined to exercise jurisdiction because this state is a more appropriate forum; or
  - (b) The respondent has a home state, a petition for an appointment or order is not pending in a court of that state or another significant-connection state, and, before the court makes the appointment or issues the order:
    - a. A petition for an appointment or order is not filed in the respondent's home state;
    - b. An objection to the court's jurisdiction is not filed by a person required to be notified of the proceeding; and
    - c. The court in this state concludes that it is an appropriate forum under the factors set forth in section 475.526;
- (3) This state does not have jurisdiction under either subdivisions (1) or (2) of this section, the respondent's home state and all significant-connection states have declined to exercise jurisdiction because this state is the more appropriate forum, and jurisdiction in this state is consistent with the constitutions of this state and the United States; or
- (4) The requirements for special jurisdiction under section 475.524 are met.

**475.524. SPECIAL JURISDICTION.** — 1. A court of this state lacking jurisdiction under section 475.523 has special jurisdiction to do any of the following:

- (1) Appoint a guardian in an emergency for a term not exceeding ninety days for a respondent who is physically present in this state;
- (2) Issue a protective order with respect to real or tangible personal property located in this state;
- (3) Appoint a guardian or conservator for an incapacitated or protected person for whom a provisional order to transfer the proceeding from another state has been issued under procedures similar to section 475.531.

2. If a petition for the appointment of a guardian in an emergency is brought in this state and this state was not the respondent's home state on the date the petition was filed, the court shall dismiss the proceeding at the request of the court of the home state, if any, whether dismissal is requested before or after the emergency appointment.

**475.525. EXCLUSIVE AND CONTINUING JURISDICTION.** — Except as otherwise provided in section 475.524, a court that has appointed a guardian or issued a protective order consistent with sections 475.501 to 475.555 has exclusive and continuing jurisdiction over the proceeding until it is terminated by the court or the appointment or order expires by its own terms.

**475.526. APPROPRIATE FORUM. — 1.** A court of this state having jurisdiction under section 475.523 to appoint a guardian or issue a protective order may decline to exercise its jurisdiction if it determines at any time that a court of another state is a more appropriate forum.

**2.** If a court of this state declines to exercise its jurisdiction under subsection 1 of this section, it shall either dismiss or stay the proceeding. The court may impose any condition the court considers just and proper, including the condition that a petition for the appointment of a guardian or protective order be promptly filed in another state.

**3.** In determining whether it is an appropriate forum, the court shall consider all relevant factors, including:

- (1) Any expressed preference of the respondent;
- (2) Whether abuse, neglect, or exploitation of the respondent has occurred or is likely to occur and which state could best protect the respondent from the abuse, neglect, or exploitation;
- (3) The length of time the respondent was physically present in or was a legal resident of this or another state;
- (4) The distance of the respondent from the court in each state;
- (5) The financial circumstances of the respondent's estate;
- (6) The nature and location of the evidence;
- (7) The ability of the court in each state to decide the issue expeditiously and the procedures necessary to present evidence;
- (8) The familiarity of the court of each state with the facts and issues in the proceeding; and
- (9) If an appointment were made, the court's ability to monitor the conduct of the guardian or conservator.

**475.527. JURISDICTION DECLINED BY REASON OF CONDUCT. — 1.** If at any time a court of this state determines that it acquired jurisdiction to appoint a guardian or issue a protective order because of unjustifiable conduct, the court may:

- (1) Decline to exercise jurisdiction;
- (2) Exercise jurisdiction for the limited purpose of fashioning an appropriate remedy to ensure the health, safety, and welfare of the respondent or the protection of the respondent's property or prevent a repetition of the unjustifiable conduct, including staying the proceeding until a petition for the appointment of a guardian or issuance of a protective order is filed in a court of another state having jurisdiction; or
- (3) Continue to exercise jurisdiction after considering:
  - (a) The extent to which the respondent and all persons required to be notified of the proceedings have acquiesced in the exercise of the court's jurisdiction;
  - (b) Whether it is a more appropriate forum than the court of any other state under the factors set forth in subsection 3 of section 475.526; and
  - (c) Whether the court of any other state would have jurisdiction under factual circumstances in substantial conformity with the jurisdictional standards of section 475.523.

**2.** If a court of this state determines that it acquired jurisdiction to appoint a guardian or issue a protective order because a party seeking to invoke its jurisdiction engaged in unjustifiable conduct, it may assess against that party necessary and reasonable expenses, including attorney's fees, investigative fees, court costs, communication expenses, witness fees and expenses, and travel expenses. The court may not assess fees, costs, or expenses of any kind against this state or a governmental subdivision, agency, or instrumentality of this state unless authorized by law other than sections 475.501 to 475.555.

**475.528. NOTICE OF PROCEEDING.** — If a petition for the appointment of a guardian or issuance of a protective order is brought in this state and this state was not the respondent's home state on the date the petition was filed, in addition to complying with the notice requirements of this state, notice of the petition shall be given to those persons who would be entitled to notice of the petition if a proceeding were brought in the respondent's home state. The notice shall be given in the same manner as notice is required to be given in this state.

**475.529. PROCEEDINGS IN MORE THAN ONE STATE.** — Except for a petition for the appointment of a guardian in an emergency or issuance of a protective order limited to property located in this state as provided in subdivision (1) or (2) of subsection 1 of section 475.524, if a petition for the appointment of a guardian or issuance of a protective order is filed in this and in another state and neither petition has been dismissed or withdrawn, the following rules apply:

(1) If the court in this state has jurisdiction under section 475.523, it may proceed with the case unless a court in another state acquires jurisdiction under provisions similar to section 475.523 before the appointment or issuance of the order.

(2) If the court in this state does not have jurisdiction under section 475.523, whether at the time the petition is filed or at any time before the appointment or issuance of the order, the court shall stay the proceeding and communicate with the court in the other state. If the court in the other state has jurisdiction, the court in this state shall dismiss the petition unless the court in the other state determines that the court in this state is a more appropriate forum.

### ARTICLE 3 TRANSFER OF GUARDIANSHIP OR CONSERVATORSHIP

**475.531. TRANSFER OF GUARDIANSHIP OR CONSERVATORSHIP TO ANOTHER STATE.** —

1. A guardian or conservator appointed in this state may petition the court to transfer the guardianship or conservatorship to another state.

2. Notice of a petition under subsection 1 of this section shall be given to those persons that would be entitled to notice of a petition in this state for the appointment of a guardian or conservator.

3. On the court's own motion or on request of the guardian or conservator, the incapacitated or protected person, or other person required to be notified of the petition, the court shall hold a hearing on a petition filed pursuant to subsection 1 of this section.

4. The court shall issue an order provisionally granting a petition to transfer a guardianship and shall direct the guardian to petition for guardianship in the other state if the court is satisfied that the guardianship will be accepted by the court in the other state and the court finds that:

(1) The incapacitated person is physically present in or is reasonably expected to move permanently to the other state;

(2) An objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the incapacitated person; and

(3) Plans for care and services for the incapacitated person in the other state are reasonable and sufficient.

5. The court shall issue a provisional order granting a petition to transfer a conservatorship and shall direct the conservator to petition for conservatorship in the other state if the court is satisfied that the conservatorship will be accepted by the court of the other state and the court finds that:

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(1) The protected person is physically present in or is reasonably expected to move permanently to the other state, or the protected person has a significant connection to the other state considering the factors set forth in subsection 2 of section 475.521;

(2) An objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the protected person; and

(3) Adequate arrangements will be made for management of the protected person's property.

6. The court shall issue a final order confirming the transfer and terminating the guardianship or conservatorship upon its receipt of:

(1) A provisional order accepting the proceeding from the court to which the proceeding is to be transferred which is issued under provisions similar to section 475.532; and

(2) The documents required to terminate a guardianship or conservatorship in this state.

**475.532. ACCEPTING GUARDIANSHIP OR CONSERVATORSHIP TRANSFERRED FROM ANOTHER STATE. — 1.** To confirm transfer of a guardianship or conservatorship transferred to this state under provisions similar to those in section 475.531, the guardian or conservator shall petition the court in this state to accept the guardianship or conservatorship. The petition shall include a certified copy of the other state's provisional order of transfer.

2. Notice of a petition under subsection 1 of this section shall be given to those persons that would be entitled to notice if the petition were a petition for the appointment of a guardian or issuance of a protective order in both the transferring state and this state. The notice shall be given in the same manner as notice is required to be given in this state.

3. On the court's own motion or on request of the guardian or conservator, the incapacitated or protected person, or other person required to be notified of the proceeding, the court shall hold a hearing on a petition filed pursuant to subsection 1 of this section.

4. The court shall issue an order provisionally granting a petition filed under subsection 1 of this section unless:

(1) An objection is made and the objector establishes that transfer of the proceeding would be contrary to the interests of the incapacitated or protected person; or

(2) The guardian or conservator is ineligible for appointment in this state.

5. The court shall issue a final order accepting the proceeding and appointing the guardian or conservator as guardian or conservator in this state upon its receipt from the court from which the proceeding is being transferred of a final order issued under provisions similar to section 475.531 transferring the proceeding to this state.

6. Not later than ninety days after issuance of a final order accepting transfer of a guardianship or conservatorship, the court shall determine whether the guardianship or conservatorship needs to be modified to conform to the law of this state.

7. In granting a petition under this section, the court shall recognize a guardianship or conservatorship order from the other state, including the determination of the incapacitated or protected person's incapacity and the appointment of the guardian or conservator.

8. The denial by a court of this state of a petition to accept guardianship or conservatorship transferred from another state does not affect the ability of the guardian or conservator to seek appointment as guardian or conservator in this state under this chapter if the court has jurisdiction to make an appointment other than by reason of the provisional order of transfer.

**ARTICLE 4**  
**REGISTRATION AND RECOGNITION OF ORDERS FROM OTHER STATES**

**475.541. REGISTRATION OF GUARDIANSHIP ORDERS.** — If a guardian has been appointed in another state and a petition for the appointment of a guardian is not pending in this state, the guardian appointed in the other state, after giving notice to the appointing court of an intent to register, may register the guardianship order in this state by filing as a foreign judgment in a court, in any appropriate county of this state, certified copies of the order and letters of office.

**475.542. REGISTRATION OF PROTECTIVE ORDERS.** — If a conservator has been appointed in another state and a petition for a protective order is not pending in this state, the conservator appointed in the other state, after giving notice to the appointing court of an intent to register, may register the protective order in this state by filing as a foreign judgment in a court of this state, in any county in which property belonging to the protected person is located, certified copies of the order and letters of office and of any bond.

**475.543. EFFECT OF REGISTRATION.** — 1. Upon registration of a guardianship or protective order from another state, the guardian or conservator may exercise in this state all powers authorized in the order of appointment except as prohibited under the laws of this state, including maintaining actions and proceedings in this state and, if the guardian or conservator is not a resident of this state, subject to any conditions imposed upon nonresident parties.

2. A court of this state may grant any relief available under sections 475.501 to 475.555 and other law of this state to enforce a registered order.

**475.544. STATE LAW APPLICABILITY.** — Except where inconsistent with sections 475.541, 475.542, and 475.543, the laws of this state relating to the registration and recognition of the acts of a foreign guardian, curator, or conservator contained in sections 475.335 to 475.340 shall be applicable.

**ARTICLE 5**  
**MISCELLANEOUS PROVISIONS**

**475.551. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** — In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**475.552. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.** — Sections 475.501 to 475.555 modify, limit, and supersede the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

**475.555. EFFECTIVE DATE.** — 1. Sections 475.501 to 475.555 apply to guardianship and protective proceedings begun on or after August 28, 2011.

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2. Articles 1, 3, 4, and sections 475.551 and 475.552 apply to proceedings begun before August 28, 2011, regardless of whether a guardianship or protective order has been issued.

Approved July 11, 2011

SB 226 [CCS HCS SS SB 226]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**Modifies provisions relating to ambulance districts.**

AN ACT to repeal sections 190.015, 190.035, 190.040, and 321.120, RSMo, and to enact in lieu thereof six new sections relating to emergency services.

SECTION

- A. Enacting clause.
- 143.1016. Organ Donor Program fund, designation of refund permitted — director's duties — sunset provision.
- 190.015. Petition to form, contents — ambulance district boundaries (St. Louis County) — sales tax in lieu of property tax permitted, exception St. Louis County.
- 190.035. Notice of election, contents.
- 190.040. Form of ballot — effect of passage on tax rate — fund created — refunds, when.
- 190.056. Recall of directors, procedure.
- 321.120. Election before decree becomes conclusive — decree to determine number of directors — ballot form — successor directors, terms — may increase number of directors, exception — ballot, form — terms.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 190.015, 190.035, 190.040, and 321.120, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 143.1016, 190.015, 190.035, 190.040, 190.056, and 321.120, to read as follows:

**143.1016. ORGAN DONOR PROGRAM FUND, DESIGNATION OF REFUND PERMITTED — DIRECTOR'S DUTIES — SUNSET PROVISION.** — **1.** For all tax years beginning on or after January 1, 2011, each individual or corporation entitled to a tax refund in an amount sufficient to make a designation under this section may designate that two dollars or any amount in excess of two dollars on a single return, and four dollars or any amount in excess of four dollars on a combined return, of the refund due be credited to the organ donor program fund established in section 194.297. The contribution designation authorized by this section shall be clearly and unambiguously printed on each income tax return form provided by this state. If any individual that is not entitled to a tax refund in an amount sufficient to make a designation under this section wishes to make a contribution to the organ donor program fund, such individual may, by separate check, draft, or other negotiable instrument, send in with the payment of taxes, or may send in separately, clearly designated for the organ donor program fund, the amount the individual wishes to contribute. The department of revenue shall deposit such amount to the organ donor program fund as provided in subsection 2 of this section.

**2.** The director of revenue shall transfer at least monthly all contributions designated by individuals under this section, less an amount sufficient to cover the cost of collecting and handling by the department of revenue which shall not exceed five percent of the transferred contributions, to the state treasurer for deposit in the state treasury to the credit of the organ donor program fund. A contribution designated under this section shall

only be transferred and deposited in the organ donor program fund after all other claims against the refund from which such contribution is to be made have been satisfied.

3. All moneys transferred to the fund shall be distributed as provided in this section and sections 194.297 and 194.299.

4. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset on December thirty-first six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset on December thirty-first twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

**190.015. PETITION TO FORM, CONTENTS — AMBULANCE DISTRICT BOUNDARIES (ST. LOUIS COUNTY) — SALES TAX IN LIEU OF PROPERTY TAX PERMITTED, EXCEPTION ST. LOUIS COUNTY.** — 1. Whenever the creation of an ambulance district is desired, a number of voters residing in the proposed district equal to ten percent of the vote cast for governor in the proposed district in the next preceding gubernatorial election may file with the county clerk in which the territory or the greater part thereof is situated a petition requesting the creation thereof. In case the proposed district is situated in two or more counties, the petition shall be filed in the office of the county clerk of the county in which the greater part of the area is situated, and the commissioners of the county commission of the county shall set the petition for public hearing. The petition shall set forth:

- (1) A description of the territory to be embraced in the proposed district;
- (2) The names of the municipalities located within the area;
- (3) The name of the proposed district;
- (4) The population of the district which shall not be less than two thousand inhabitants;
- (5) The assessed valuation of the area, which shall not be less than ten million dollars; and
- (6) A request that the question be submitted to the voters residing within the limits of the proposed ambulance district whether they will establish an ambulance district pursuant to the provisions of sections 190.001 to 190.090 to be known as "..... Ambulance District" for the purpose of establishing and maintaining an ambulance service.

2. In any county with a charter form of government and with more than one million inhabitants, fire protection districts created under chapter 321 may choose to create an ambulance district with boundaries congruent with each participating fire protection district's existing boundaries provided no ambulance district already exists in whole or part of any district being proposed and the dominant provider of ambulance services within the proposed district as of September 1, 2005, ceases to offer or provide ambulance services, and the board of each participating district, by a majority vote, approves the formation of such a district and participating fire protection districts are contiguous. Upon approval by the fire protection district boards, subsection 1 of this section shall be followed for formation of the ambulance district. Services provided by a district under this subsection shall only include emergency ambulance services as defined in section 321.225.

3. Except in any county with a charter form of government and with more than one million inhabitants, any ambulance district established under this chapter on or after August 28, 2011, may levy and impose a sales tax in lieu of a property tax to fund the district. The petition to create the ambulance district shall state whether the district will be funded by a property or a sales tax.

**190.035. NOTICE OF ELECTION, CONTENTS.** — Each notice shall state briefly the purpose of the election, setting forth the proposition to be voted upon and a description of the territory. The notice shall further state that any district upon its establishment shall have the powers, objects and purposes provided by sections 190.005 to 190.085, and shall have the power to levy a property tax not to exceed thirty cents on the one hundred dollars valuation, **or, in lieu of a property tax, to impose a sales tax in an amount not to exceed one-half of one percent on all retail sales made in such ambulance district which are subject to taxation pursuant to the provisions of sections 144.010 to 144.525.**

**190.040. FORM OF BALLOT — EFFECT OF PASSAGE ON TAX RATE — FUND CREATED — REFUNDS, WHEN.** — **1. For the organization of a district which shall levy a property tax,** the question shall be submitted in substantially the following form:

Shall there be organized in the counties of ....., state of Missouri, an ambulance district for the establishment and operation of an ambulance service to be located within the boundaries of said proposed district and having the power to impose a property tax not to exceed the annual rate of thirty cents on the hundred dollars assessed valuation without voter approval, and such additional tax as may be approved hereafter by vote thereon, to be known as "..... Ambulance District" as prayed for by petition filed with the county clerk of ..... County, Missouri, on the ..... day of ....., 20....?

**2. For the organization of a district which shall levy a sales tax,** the question shall be submitted in substantially the following form:

Shall there be organized in the counties of ....., state of Missouri, an ambulance district for the establishment and operation of an ambulance service to be located within the boundaries of said district and having the power to impose a sales tax in an amount not to exceed one-half of one percent without voter approval, and such additional tax as may be approved hereafter by vote thereon, to be known as "..... Ambulance District" as prayed for by petition filed with the county clerk of ..... County, Missouri, on the ..... day of ....., 20....?

**3. If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal,** then the sales tax authorized in this section shall be in effect and the governing body of the ambulance district shall lower the level of its tax rate by an amount which reduces property tax revenues by an amount equal to fifty percent of the amount of sales tax collected in the preceding year. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the ambulance district shall not impose the sales tax authorized in this section unless and until the governing body of such ambulance district resubmits a proposal to authorize the governing body of the ambulance district to impose the sales tax authorized by this section and such proposal is approved by a majority of the qualified voters voting thereon.

**4. All revenue received by a district from the tax authorized pursuant to this section shall be deposited in a special trust fund, and be used solely for the purposes specified in the proposal submitted pursuant to this section for so long as the tax shall remain in effect.**

**5. All sales taxes collected by the director of revenue pursuant to this section, less one percent for cost of collection, which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, shall be deposited in a special trust fund, which is hereby created, to be known as the "Ambulance District Sales Tax Trust Fund". The moneys in the ambulance district sales tax trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust and the amount collected in each district imposing a sales tax pursuant to this section, and the records shall be open to inspection by officers of the county and to the public. Not later than the tenth day of each month, the director of revenue shall distribute all moneys**

deposited in the trust fund during the preceding month to the governing body of the district which levied the tax. Such funds shall be deposited with the board treasurer of each such district.

6. The director of revenue may make refunds from the amounts in the trust fund and credit any district for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such district. If any district abolishes the tax, the district shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such district, the director of revenue shall remit the balance in the account to the district and close the account of that district. The director of revenue shall notify each district of each instance of any amount refunded or any check redeemed from receipts due the district.

7. Except as modified in this section, all provisions of sections 32.085 and 32.087 shall apply to the tax imposed pursuant to this section.

**190.056. RECALL OF DIRECTORS, PROCEDURE.** — 1. Each member of an ambulance district board of directors shall be subject to recall from office by the registered voters of the election district from which he or she was elected. Proceedings may be commenced for the recall of any such member by the filing of a notice of intention to circulate a recall petition under this section.

2. Proceedings may not be commenced against any member if, at the time of commencement, such member:

- (1) Has not held office during his or her current term for a period of more than one hundred eighty days; or
- (2) Has one hundred eighty days or less remaining in his or her term; or
- (3) Has had a recall election determined in his or her favor within the current term of office.

3. The notice of intention to circulate a recall petition shall be served personally, or by certified mail, on the board member sought to be recalled. A copy thereof shall be filed, along with an affidavit of the time and manner of service, with the election authority, as defined in chapter 115. A separate notice shall be filed for each board member sought to be recalled and shall contain all of the following:

- (1) The name of the board member sought to be recalled;
- (2) A statement, not exceeding two hundred words in length, of the reasons for the proposed recall; and
- (3) The names and business or residential addresses of at least one but not more than five proponents of the recall.

4. Within seven days after the filing of the notice of intention, the board member may file with the election authority a statement, not exceeding two hundred words in length, in answer to the statement of the proponents. If an answer is filed, the board member shall also serve a copy of it, personally or by certified mail, on one of the proponents named in the notice of intention. The statement and answer are intended solely to be used for the information of the voters. No insufficiency in form or substance of such statements shall affect the validity of the election proceedings.

5. Before any signature may be affixed to a recall petition, the petition is required to bear all of the following:

- (1) A request that an election be called to elect a successor to the board member;
- (2) A copy of the notice of intention, including the statement of grounds for recall;

(3) The answer of the board member sought to be recalled, if any exists. If the board member has not answered, the petition shall so state; and

(4) A place for each signer to affix his or her signature, printed name and residential address, including any address in a city, town, village, or unincorporated community.

6. Each section of the petition, when submitted to the election authority, shall have attached to it an affidavit signed by the person circulating such section, setting forth all of the following:

(1) The printed name of the affiant;

(2) The residential address of the affiant;

(3) That the affiant circulated that section and saw the appended signatures be written;

(4) That according to the best information and belief of the affiant, each signature is the genuine signature of the person whose name it purports to be;

(5) That the affiant is a registered voter of the election district of the board member sought to be recalled; and

(6) The dates between which all the signatures to the petition were obtained.

7. A recall petition shall be filed with the election authority not more than one hundred eighty days after the filing of the notice of intention.

8. The number of qualified signatures required in order to recall a board member shall be equal in number to at least twenty-five percent of the number of voters who voted in the most recent gubernatorial election in such election district.

9. Within twenty days from the filing of the recall petition the election authority shall determine whether or not the petition was signed by the required number of qualified signatures. The election authority shall file with the petition a certificate showing the results of the examination. The election authority shall give the proponents a copy of the certificate upon their request.

10. If the election authority certifies the petition to be insufficient, it may be supplemented within ten days of the date of certification by filing additional petition sections containing all of the information required by this section. Within ten days after the supplemental copies are filed, the election authority shall file with them a certificate stating whether or not the petition as supplemented is sufficient.

11. If the certificate shows that the petition as supplemented is insufficient, no action shall be taken on it; however, the petition shall remain on file.

12. If the election authority finds the signatures on the petition, together with the supplementary petition sections, if any, to be sufficient, it shall submit its certificate as to the sufficiency of the petition to the ambulance district board of directors prior to its next meeting. The certificate shall contain:

(1) The name of the member whose recall is sought;

(2) The number of signatures required by law;

(3) The total number of signatures on the petition; and

(4) The number of valid signatures on the petition.

13. Following the ambulance district board's receipt of the certificate, the election authority shall order an election to be held on one of the election days specified in section 115.123. The election shall be held not less than forty-five days but not more than one hundred twenty days from the date the ambulance district board receives the petition. Nominations for board membership openings under this section shall be made by filing a statement of candidacy with the election authority.

14. At any time prior to forty-two days before the election, the member sought to be recalled may offer his or her resignation. If his or her resignation is offered, the recall question shall be removed from the ballot and the office declared vacant. The member who resigned shall not fill the vacancy, which shall be filled as otherwise provided by law.

**15. The provisions of chapter 115 governing the conduct of elections shall apply, where appropriate, to recall elections held under this section. The costs of the election shall be paid as provided in chapter 115.**

**321.120. ELECTION BEFORE DECREE BECOMES CONCLUSIVE — DECREE TO DETERMINE NUMBER OF DIRECTORS — BALLOT FORM — SUCCESSOR DIRECTORS, TERMS — MAY INCREASE NUMBER OF DIRECTORS, EXCEPTION — BALLOT, FORM — TERMS.** — 1. The decree of incorporation shall not become final and conclusive until it has been submitted to an election of the voters residing within the boundaries described in such decree, and until it has been assented to by a majority vote of the voters of the district voting on the question. The decree shall also provide for the holding of the election to vote on the proposition of incorporating the district, and to select three or five persons to act as the first board of directors, and shall fix the date for holding the election.

2. The question shall be submitted in substantially the following form:

Shall there be incorporated a fire protection district?

☐ YES      ☐ NO

3. The proposition of electing the first board of directors or the election of subsequent directors may be submitted on a separate ballot or on the same ballot which contains any other proposition of the fire protection district. The ballot to be used for the election of a director or directors shall be substantially in the following form:

**OFFICIAL BALLOT**

Instruction to voters:

Place a cross (X) mark in the square opposite the name of the candidate or candidates you favor. (Here state the number of directors to be elected and their term of office.)

**ELECTION**

(Here insert name of district.) Fire Protection District. (Here insert date of election.)

**FOR BOARD OF DIRECTORS**

..... ☐  
 ..... ☐  
 ..... ☐

4. If a majority of the voters voting on the proposition or propositions voted in favor of the proposition to incorporate the district, then the court shall enter its further order declaring the decree of incorporation to be final and conclusive. In the event, however, that the court finds that a majority of the voters voting thereon voted against the proposition to incorporate the district, then the court shall enter its further order declaring the decree of incorporation to be void and of no effect. If the court enters an order declaring the decree of incorporation to be final and conclusive, it shall at the same time designate the first board of directors of the district who have been elected by the voters voting thereon. If a board of three members is elected, the person receiving the third highest number of votes shall hold office for a term of two years, the person receiving the second highest number of votes shall hold office for a term of four years, and the person receiving the highest number of votes shall hold office for a term of six years from the date of the election of the first board of directors and until their successors are duly elected and qualified. If a board of five members is elected, the person who received the highest number of votes shall hold office for a term of six years, the persons who received the second and third highest numbers of votes shall hold office for terms of four years and the persons who received the fourth and fifth highest numbers of votes shall hold office for terms of two years and until their successors are duly elected and qualified. Thereafter, members of the board shall be elected to serve terms of six years and until their successors are duly elected and qualified[, provided however, in any county with a charter form of government and with more than two hundred fifty thousand but fewer than three hundred fifty thousand inhabitants, any successor elected and qualified in the year 2005 shall hold office for a term of six years and until his or her successor is duly elected and qualified and any



successor elected and qualified in the year 2006 or 2007 shall hold office for a term of five years and until his or her successor is duly elected and qualified, and thereafter, members of the board shall be elected to serve terms of four years and until their successors are duly elected and qualified]. The court shall at the same time enter an order of record declaring the result of the election on the proposition, if any, to incur bonded indebtedness.

5. Notwithstanding the provisions of subsections 1 to 4 of this section to the contrary, upon a motion by the board of directors in districts where there are three-member boards, and upon approval by the voters in the district, the number of directors may be increased to five, except that in any county of the first classification with a population of more than nine hundred thousand inhabitants such increase in the number of directors shall apply only in the event of a consolidation of existing districts. The ballot to be used for the approval of the voters to increase the number of members on the board of directors of the fire protection district shall be substantially in the following form:

Shall the number of members of the board of directors of the ..... (Insert name of district) Fire Protection District be increased to five members?

☐ YES      ☐ NO

If a majority of the voters voting on the proposition vote in favor of the proposition then at the next election of board members after the voters vote to increase the number of directors, the voters shall select two persons to act in addition to the existing three directors as the board of directors. The court which entered the order declaring the decree of incorporation to be final shall designate the additional board of directors who have been elected by the voters voting thereon as follows: the one receiving the second highest number of votes to hold office for a term of four years, and the one receiving the highest number of votes to hold office for a term of six years from the date of the election of such additional board of directors and until their successors are duly elected and qualified. Thereafter, members of the board shall be elected to serve terms of six years and until their successors are duly elected and qualified[, provided however, in any county with a charter form of government and with more than two hundred fifty thousand but fewer than three hundred fifty thousand inhabitants, any successor elected and qualified in the year 2005 shall hold office for a term of six years and until his or her successor is duly elected and qualified and any successor elected and qualified in the year 2006 or 2007 shall hold office for a term of five years and until his or her successor is duly elected and qualified, and thereafter, members of the board shall be elected to serve terms of four years and until their successors are duly elected and qualified].

6. Members of the board of directors in office on the date of an election pursuant to subsection 5 of this section to elect additional members to the board of directors shall serve the term to which they were elected or appointed and until their successors are elected and qualified.

Approved July 5, 2011

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## SB 237 [SB 237]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**Requires that the September 1996 Supreme Court standards for representation by guardians ad litem be updated.**

AN ACT to repeal section 484.350, RSMo, and to enact in lieu thereof one new section relating to standards for representation of children by guardians ad litem.

## SECTION

A. Enacting clause.

484.350. Standards for representation to be updated and adopted statewide, when.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Section 484.350, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 484.350, to read as follows:

**484.350. STANDARDS FOR REPRESENTATION TO BE UPDATED AND ADOPTED STATEWIDE, WHEN.** — Recognizing that Missouri children have a right to adequate and effective representation in child welfare cases, the September 17, 1996, Missouri supreme court standards for representation by guardians ad litem shall be **updated and** adopted statewide and each circuit shall devise a plan for implementation which takes into account the individual needs of their circuit as well as the negative impact that excessive caseloads have upon effectiveness of counsel. These plans shall be approved by the supreme court en banc and fully implemented by July 1, 2011.

Approved July 8, 2011

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## SB 238 [SS SB 238]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**Creates a presumption that certain infectious diseases are duty-related for the purposes of firefighters' disability and death benefits.**

AN ACT to repeal sections 87.005 and 87.006, RSMo, and to enact in lieu thereof two new sections relating to diseases presumed incurred in the line of duty by firefighters.

## SECTION

A. Enacting clause.

87.005. Firemen, certain diseases presumed incurred in line of duty — conditions — infectious disease defined.

87.006. Firemen, certain diseases presumed incurred in line of duty — persons covered — disability from cancer, presumption suffered in line of duty, when — infectious disease defined.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 87.005 and 87.006, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 87.005 and 87.006, to read as follows:

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**87.005. FIREMEN, CERTAIN DISEASES PRESUMED INCURRED IN LINE OF DUTY — CONDITIONS — INFECTIOUS DISEASE DEFINED.** — 1. Notwithstanding the provisions of any law to the contrary, after five years' service, any condition of impairment of health caused by any **infectious disease**, disease of the lungs or respiratory tract, hypertension, or disease of the heart resulting in total or partial disability or death to a uniformed member of a paid fire department, who successfully passed a physical examination within five years prior to the time a claim is made for such disability or death, which examination failed to reveal any evidence of such condition, shall be presumed to have been suffered in line of duty, unless the contrary be shown by competent evidence. **In order to receive the presumption that an infectious disease was contracted in the line of duty, the member shall submit to an annual physical examination, at which a blood test is administered.**

2. This section shall apply only to the provisions of chapter 87, RSMo 1959.

3. **As used in this section, the term "infectious disease" means the human immunodeficiency virus, acquired immunodeficiency syndrome, tuberculosis, hepatitis A, hepatitis B, hepatitis C, hepatitis D, diphtheria, meningococcal meningitis, methicillin-resistant staphylococcus aureus, hemorrhagic fever, plague, rabies, and severe acute respiratory syndrome.**

**87.006. FIREMEN, CERTAIN DISEASES PRESUMED INCURRED IN LINE OF DUTY — PERSONS COVERED — DISABILITY FROM CANCER, PRESUMPTION SUFFERED IN LINE OF DUTY, WHEN — INFECTIOUS DISEASE DEFINED.** — 1. Notwithstanding the provisions of any law to the contrary, and only for the purpose of computing retirement benefits provided by an established retirement plan, after five years' service, any condition of impairment of health caused by any **infectious disease**, disease of the lungs or respiratory tract, hypotension, hypertension, or disease of the heart resulting in total or partial disability or death to a uniformed member of a paid fire department, who successfully passed a physical examination within five years prior to the time a claim is made for such disability or death, which examination failed to reveal any evidence of such condition, shall be presumed to have been suffered in the line of duty, unless the contrary be shown by competent evidence. **In order to receive the presumption that an infectious disease was contracted in the line of duty, the member shall submit to an annual physical examination, at which a blood test is administered.**

2. Any condition of cancer affecting the skin or the central nervous, lymphatic, digestive, hematological, urinary, skeletal, oral, breast, testicular, genitourinary, liver or prostate systems, as well as any condition of cancer which may result from exposure to heat or radiation or to a known or suspected carcinogen as determined by the International Agency for Research on Cancer, which results in the total or partial disability or death to a uniformed member of a paid fire department who successfully passed a physical examination within five years prior to the time a claim is made for disability or death, which examination failed to reveal any evidence of such condition, shall be presumed to have been suffered in the line of duty unless the contrary be shown by competent evidence and it can be proven to a reasonable degree of medical certainty that the condition did not result nor was contributed to by the voluntary use of tobacco.

3. This section shall apply to paid members of all fire departments of all counties, cities, towns, fire districts, and other governmental units.

4. **As used in this section, the term "infectious disease" means the human immunodeficiency virus, acquired immunodeficiency syndrome, tuberculosis, hepatitis A, hepatitis B, hepatitis C, hepatitis D, diphtheria, meningococcal meningitis, methicillin-resistant staphylococcus aureus, hemorrhagic fever, plague, rabies, and severe acute respiratory syndrome.**

Approved July 7, 2011

## SB 250 [CCS#2 HCS SB 250]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**Requires sexual assault offenders to complete certain programs prior to being eligible for parole or conditional release.**

AN ACT to repeal sections 566.147 and 589.040, RSMo, and to enact in lieu thereof two new sections relating to requirements for persons convicted of sexual assault offenses, with penalty provisions.

SECTION

A. Enacting clause.

566.147. Certain offenders not to reside within one thousand feet of a school or child-care facility.

589.040. Duties of department of corrections — certain inmates to participate in programs.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 566.147 and 589.040, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 566.147 and 589.040, to read as follows:

**566.147. CERTAIN OFFENDERS NOT TO RESIDE WITHIN ONE THOUSAND FEET OF A SCHOOL OR CHILD-CARE FACILITY.** — 1. Any person who, since July 1, 1979, has been or hereafter has pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of:

(1) Violating any of the provisions of this chapter or the provisions of subsection 2 of section 568.020, incest; section 568.045, endangering the welfare of a child in the first degree; subsection 2 of section 568.080, use of a child in a sexual performance; section 568.090, promoting a sexual performance by a child; section 573.023, sexual exploitation of a minor; section 573.025, promoting child pornography in the first degree; section 573.035, promoting child pornography in the second degree; section 573.037, possession of child pornography, or section 573.040, furnishing pornographic material to minors; or

(2) Any offense in any other state or foreign country, or under federal, tribal, or military jurisdiction which, if committed in this state, would be a violation listed in this section; shall not reside within one thousand feet of any public school as defined in section 160.011, [or] any private school giving instruction in a grade or grades not higher than the twelfth grade, [or] child-care facility [as defined in section 210.201, which] **that is licensed under chapter 210, or any childcare facility as defined in section 210.201 that is exempt from state licensure but subject to state regulation under section 210.252 and holds itself out to be a childcare facility, where the school or facility** is in existence at the time the individual begins to reside at the location.

2. If such person has already established a residence and a public school, a private school, or child-care facility is subsequently built or placed within one thousand feet of such person's residence, then such person shall, within one week of the opening of such public school, private school, or child-care facility, notify the county sheriff where such public school, private school, or child-care facility is located that he or she is now residing within one thousand feet of such public school, private school, or child-care facility and shall provide verifiable proof to the sheriff that he or she resided there prior to the opening of such public school, private school, or child-care facility.

3. For purposes of this section, "resides" means sleeps in a residence, which may include more than one location and may be mobile or transitory.

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4. Violation of the provisions of subsection 1 of this section is a class D felony except that the second or any subsequent violation is a class B felony. Violation of the provisions of subsection 2 of this section is a class A misdemeanor except that the second or subsequent violation is a class D felony.

**589.040. DUTIES OF DEPARTMENT OF CORRECTIONS — CERTAIN INMATES TO PARTICIPATE IN PROGRAMS.** — 1. The director of the department of corrections shall develop a program of treatment, education and rehabilitation for all imprisoned offenders who are serving sentences for sexual assault offenses. When developing such programs, the ultimate goal shall be the prevention of future sexual assaults by the participants in such programs, and the director shall utilize those concepts, services, programs, projects, facilities and other resources designed to achieve this goal.

2. All persons imprisoned by the department of corrections for sexual assault offenses shall be required to successfully complete the programs developed pursuant to subsection 1 of this section **prior to being eligible for parole or conditional release.**

Approved July 14, 2011

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SB 284 [CCS HCS SB 284]

**EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

**Modifies the disciplinary authority of the Board of Pharmacy and defines the term legend drug for the purpose of certain pharmacy statutes.**

AN ACT to repeal sections 144.030, 338.055, and 338.330, RSMo, and to enact in lieu thereof three new sections relating to pharmacy, with an emergency clause for a certain section.

SECTION

- A. Enacting clause.
- 144.030. Exemptions from state and local sales and use taxes.
- 338.055. Denial, revocation or suspension of license, grounds for — expedited procedure — additional discipline authorized, when.
- 338.330. Definitions.
- B. Emergency clause.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 144.030, 338.055, and 338.330, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 144.030, 338.055, and 338.330, to read as follows:

**144.030. EXEMPTIONS FROM STATE AND LOCAL SALES AND USE TAXES.** — 1. There is hereby specifically exempted from the provisions of sections 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525 such retail sales as may be made in commerce between this state and any other state of the United States, or between this state and any foreign country, and any retail sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or laws of the United States of America, and such retail sales of tangible personal property which the general assembly of the state of Missouri is prohibited from taxing or further taxing by the constitution of this state.

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2. There are also specifically exempted from the provisions of the local sales tax law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.761 and from the computation of the tax levied, assessed or payable pursuant to the local sales tax law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.745:

(1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of such excise tax is refunded pursuant to section 142.824; or upon the sale at retail of fuel to be consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be converted into foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone or fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested will be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at retail; economic poisons registered pursuant to the provisions of the Missouri pesticide registration law (sections 281.220 to 281.310) which are to be used in connection with the growth or production of crops, fruit trees or orchards applied before, during, or after planting, the crop of which when harvested will be sold at retail or will be converted into foodstuffs which are to be sold ultimately in processed form at retail;

(2) Materials, manufactured goods, machinery and parts which when used in manufacturing, processing, compounding, mining, producing or fabricating become a component part or ingredient of the new personal property resulting from such manufacturing, processing, compounding, mining, producing or fabricating and which new personal property is intended to be sold ultimately for final use or consumption; and materials, including without limitation, gases and manufactured goods, including without limitation slagging materials and firebrick, which are ultimately consumed in the manufacturing process by blending, reacting or interacting with or by becoming, in whole or in part, component parts or ingredients of steel products intended to be sold ultimately for final use or consumption;

(3) Materials, replacement parts and equipment purchased for use directly upon, and for the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling stock or aircraft engaged as common carriers of persons or property;

(4) Replacement machinery, equipment, and parts and the materials and supplies solely required for the installation or construction of such replacement machinery, equipment, and parts, used directly in manufacturing, mining, fabricating or producing a product which is intended to be sold ultimately for final use or consumption; and machinery and equipment, and the materials and supplies required solely for the operation, installation or construction of such machinery and equipment, purchased and used to establish new, or to replace or expand existing, material recovery processing plants in this state. For the purposes of this subdivision, a "material recovery processing plant" means a facility that has as its primary purpose the recovery of materials into a useable product or a different form which is used in producing a new product and shall include a facility or equipment which are used exclusively for the collection of recovered materials for delivery to a material recovery processing plant but shall not include motor vehicles used on highways. For purposes of this section, the terms motor vehicle and highway shall have the same meaning pursuant to section 301.010. Material recovery is not the reuse of materials within a manufacturing process or the use of a product previously recovered. The material recovery processing plant shall qualify under the provisions of this section regardless of ownership of the material being recovered;

(5) Machinery and equipment, and parts and the materials and supplies solely required for the installation or construction of such machinery and equipment, purchased and used to establish new or to expand existing manufacturing, mining or fabricating plants in the state if such machinery and equipment is used directly in manufacturing, mining or fabricating a product which is intended to be sold ultimately for final use or consumption;

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(6) Tangible personal property which is used exclusively in the manufacturing, processing, modification or assembling of products sold to the United States government or to any agency of the United States government;

(7) Animals or poultry used for breeding or feeding purposes;

(8) Newsprint, ink, computers, photosensitive paper and film, toner, printing plates and other machinery, equipment, replacement parts and supplies used in producing newspapers published for dissemination of news to the general public;

(9) The rentals of films, records or any type of sound or picture transcriptions for public commercial display;

(10) Pumping machinery and equipment used to propel products delivered by pipelines engaged as common carriers;

(11) Railroad rolling stock for use in transporting persons or property in interstate commerce and motor vehicles licensed for a gross weight of twenty-four thousand pounds or more or trailers used by common carriers, as defined in section 390.020, in the transportation of persons or property;

(12) Electrical energy used in the actual primary manufacture, processing, compounding, mining or producing of a product, or electrical energy used in the actual secondary processing or fabricating of the product, or a material recovery processing plant as defined in subdivision (4) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical energy so used exceeds ten percent of the total cost of production, either primary or secondary, exclusive of the cost of electrical energy so used or if the raw materials used in such processing contain at least twenty-five percent recovered materials as defined in section 260.200. There shall be a rebuttable presumption that the raw materials used in the primary manufacture of automobiles contain at least twenty-five percent recovered materials. For purposes of this subdivision, "processing" means any mode of treatment, act or series of acts performed upon materials to transform and reduce them to a different state or thing, including treatment necessary to maintain or preserve such processing by the producer at the production facility;

(13) Anodes which are used or consumed in manufacturing, processing, compounding, mining, producing or fabricating and which have a useful life of less than one year;

(14) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring air pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices;

(15) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring water pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices;

(16) Tangible personal property purchased by a rural water district;

(17) All amounts paid or charged for admission or participation or other fees paid by or other charges to individuals in or for any place of amusement, entertainment or recreation, games or athletic events, including museums, fairs, zoos and planetariums, owned or operated by a municipality or other political subdivision where all the proceeds derived therefrom benefit the municipality or other political subdivision and do not inure to any private person, firm, or corporation;

(18) All sales of insulin and prosthetic or orthopedic devices as defined on January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of 1965, including the items specified in Section 1862(a)(12) of that act, and also specifically including hearing aids and hearing aid supplies and all sales of drugs which may be legally dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to administer those items, including samples and materials used to manufacture samples which may be dispensed by a practitioner authorized to dispense such samples and all sales **or rental** of medical oxygen, home

respiratory equipment and accessories, hospital beds and accessories and ambulatory aids, all sales **or rental** of manual and powered wheelchairs, stairway lifts, Braille writers, electronic Braille equipment and, if purchased **or rented** by or on behalf of a person with one or more physical or mental disabilities to enable them to function more independently, all sales **or rental** of scooters, reading machines, electronic print enlargers and magnifiers, electronic alternative and augmentative communication devices, and items used solely to modify motor vehicles to permit the use of such motor vehicles by individuals with disabilities or sales of over-the-counter or nonprescription drugs to individuals with disabilities, **and drugs required by the Food and Drug Administration to meet the over-the-counter drug product labeling requirements in 21 CFR 201.66, or its successor, as prescribed by a health care practitioner licensed to prescribe;**

(19) All sales made by or to religious and charitable organizations and institutions in their religious, charitable or educational functions and activities and all sales made by or to all elementary and secondary schools operated at public expense in their educational functions and activities;

(20) All sales of aircraft to common carriers for storage or for use in interstate commerce and all sales made by or to not-for-profit civic, social, service or fraternal organizations, including fraternal organizations which have been declared tax-exempt organizations pursuant to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, in their civic or charitable functions and activities and all sales made to eleemosynary and penal institutions and industries of the state, and all sales made to any private not-for-profit institution of higher education not otherwise excluded pursuant to subdivision (19) of this subsection or any institution of higher education supported by public funds, and all sales made to a state relief agency in the exercise of relief functions and activities;

(21) All ticket sales made by benevolent, scientific and educational associations which are formed to foster, encourage, and promote progress and improvement in the science of agriculture and in the raising and breeding of animals, and by nonprofit summer theater organizations if such organizations are exempt from federal tax pursuant to the provisions of the Internal Revenue Code and all admission charges and entry fees to the Missouri state fair or any fair conducted by a county agricultural and mechanical society organized and operated pursuant to sections 262.290 to 262.530;

(22) All sales made to any private not-for-profit elementary or secondary school, all sales of feed additives, medications or vaccines administered to livestock or poultry in the production of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber, all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying agricultural crops, natural gas used in the primary manufacture or processing of fuel ethanol as defined in section 142.028, natural gas, propane, and electricity used by an eligible new generation cooperative or an eligible new generation processing entity as defined in section 348.432, and all sales of farm machinery and equipment, other than airplanes, motor vehicles and trailers. As used in this subdivision, the term "feed additives" means tangible personal property which, when mixed with feed for livestock or poultry, is to be used in the feeding of livestock or poultry. As used in this subdivision, the term "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and other assorted pesticide carriers used to improve or enhance the effect of a pesticide and the foam used to mark the application of pesticides and herbicides for the production of crops, livestock or poultry. As used in this subdivision, the term "farm machinery and equipment" means new or used farm tractors and such other new or used farm machinery and equipment and repair or replacement parts thereon, and supplies and lubricants used exclusively, solely, and directly for producing crops, raising and feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk for ultimate sale at retail, including field drain tile, and one-half of each purchaser's purchase of diesel fuel therefor which is:

(a) Used exclusively for agricultural purposes;



- (b) Used on land owned or leased for the purpose of producing farm products; and
- (c) Used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold ultimately in processed form at retail;

(23) Except as otherwise provided in section 144.032, all sales of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil for domestic use and in any city not within a county, all sales of metered or unmetered water service for domestic use:

(a) "Domestic use" means that portion of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil, and in any city not within a county, metered or unmetered water service, which an individual occupant of a residential premises uses for nonbusiness, noncommercial or nonindustrial purposes. Utility service through a single or master meter for residential apartments or condominiums, including service for common areas and facilities and vacant units, shall be deemed to be for domestic use. Each seller shall establish and maintain a system whereby individual purchases are determined as exempt or nonexempt;

(b) Regulated utility sellers shall determine whether individual purchases are exempt or nonexempt based upon the seller's utility service rate classifications as contained in tariffs on file with and approved by the Missouri public service commission. Sales and purchases made pursuant to the rate classification "residential" and sales to and purchases made by or on behalf of the occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, shall be considered as sales made for domestic use and such sales shall be exempt from sales tax. Sellers shall charge sales tax upon the entire amount of purchases classified as nondomestic use. The seller's utility service rate classification and the provision of service thereunder shall be conclusive as to whether or not the utility must charge sales tax;

(c) Each person making domestic use purchases of services or property and who uses any portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day of the fourth month following the year of purchase, and without assessment, notice or demand, file a return and pay sales tax on that portion of nondomestic purchases. Each person making nondomestic purchases of services or property and who uses any portion of the services or property so purchased for domestic use, and each person making domestic purchases on behalf of occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, under a nonresidential utility service rate classification may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for credit or refund to the director of revenue and the director shall give credit or make refund for taxes paid on the domestic use portion of the purchase. The person making such purchases on behalf of occupants of residential apartments or condominiums shall have standing to apply to the director of revenue for such credit or refund;

(24) All sales of handicraft items made by the seller or the seller's spouse if the seller or the seller's spouse is at least sixty-five years of age, and if the total gross proceeds from such sales do not constitute a majority of the annual gross income of the seller;

(25) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of revenue shall promulgate rules pursuant to chapter 536 to eliminate all state and local sales taxes on such excise taxes;

(26) Sales of fuel consumed or used in the operation of ships, barges, or waterborne vessels which are used primarily in or for the transportation of property or cargo, or the conveyance of persons for hire, on navigable rivers bordering on or located in part in this state, if such fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such river;

(27) All sales made to an interstate compact agency created pursuant to sections 70.370 to 70.441 or sections 238.010 to 238.100 in the exercise of the functions and activities of such agency as provided pursuant to the compact;

(28) Computers, computer software and computer security systems purchased for use by architectural or engineering firms headquartered in this state. For the purposes of this subdivision, "headquartered in this state" means the office for the administrative management of at least four integrated facilities operated by the taxpayer is located in the state of Missouri;

(29) All livestock sales when either the seller is engaged in the growing, producing or feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering or leasing of such livestock;

(30) All sales of barges which are to be used primarily in the transportation of property or cargo on interstate waterways;

(31) Electrical energy or gas, whether natural, artificial or propane, water, or other utilities which are ultimately consumed in connection with the manufacturing of cellular glass products or in any material recovery processing plant as defined in subdivision (4) of this subsection;

(32) Notwithstanding other provisions of law to the contrary, all sales of pesticides or herbicides used in the production of crops, aquaculture, livestock or poultry;

(33) Tangible personal property and utilities purchased for use or consumption directly or exclusively in the research and development of agricultural/biotechnology and plant genomics products and prescription pharmaceuticals consumed by humans or animals;

(34) All sales of grain bins for storage of grain for resale;

(35) All sales of feed which are developed for and used in the feeding of pets owned by a commercial breeder when such sales are made to a commercial breeder, as defined in section 273.325, and licensed pursuant to sections 273.325 to 273.357;

(36) All purchases by a contractor on behalf of an entity located in another state, provided that the entity is authorized to issue a certificate of exemption for purchases to a contractor under the provisions of that state's laws. For purposes of this subdivision, the term "certificate of exemption" shall mean any document evidencing that the entity is exempt from sales and use taxes on purchases pursuant to the laws of the state in which the entity is located. Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's exemption certificate as evidence of the exemption. If the exemption certificate issued by the exempt entity to the contractor is later determined by the director of revenue to be invalid for any reason and the contractor has accepted the certificate in good faith, neither the contractor or the exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result of use of the invalid exemption certificate. Materials shall be exempt from all state and local sales and use taxes when purchased by a contractor for the purpose of fabricating tangible personal property which is used in fulfilling a contract for the purpose of constructing, repairing or remodeling facilities for the following:

(a) An exempt entity located in this state, if the entity is one of those entities able to issue project exemption certificates in accordance with the provisions of section 144.062; or

(b) An exempt entity located outside the state if the exempt entity is authorized to issue an exemption certificate to contractors in accordance with the provisions of that state's law and the applicable provisions of this section;

(37) All sales or other transfers of tangible personal property to a lessor who leases the property under a lease of one year or longer executed or in effect at the time of the sale or other transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441 or sections 238.010 to 238.100;

(38) Sales of tickets to any collegiate athletic championship event that is held in a facility owned or operated by a governmental authority or commission, a quasi-governmental agency, a state university or college or by the state or any political subdivision thereof, including a municipality, and that is played on a neutral site and may reasonably be played at a site located

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outside the state of Missouri. For purposes of this subdivision, "neutral site" means any site that is not located on the campus of a conference member institution participating in the event;

(39) All purchases by a sports complex authority created under section 64.920, and all sales of utilities by such authority at the authority's cost that are consumed in connection with the operation of a sports complex leased to a professional sports team;

(40) Beginning January 1, 2009, but not after January 1, 2015, materials, replacement parts, and equipment purchased for use directly upon, and for the modification, replacement, repair, and maintenance of aircraft, aircraft power plants, and aircraft accessories;

(41) Sales of sporting clays, wobble, skeet, and trap targets to any shooting range or similar places of business for use in the normal course of business and money received by a shooting range or similar places of business from patrons and held by a shooting range or similar place of business for redistribution to patrons at the conclusion of a shooting event.

**338.055. DENIAL, REVOCATION OR SUSPENSION OF LICENSE, GROUNDS FOR — EXPEDITED PROCEDURE — ADDITIONAL DISCIPLINE AUTHORIZED, WHEN. —** 1. The board may refuse to issue any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section **or if the designated pharmacist-in-charge, manager-in-charge, or any officer, owner, manager, or controlling shareholder of the applicant has committed any act or practice in subsection 2 of this section.** The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license, or diploma from any school;

(8) Denial of licensure to an applicant or disciplinary action against an applicant or the holder of a license or other right to practice any profession regulated by this chapter granted by another state, territory, federal agency, or country whether or not voluntarily agreed to by the licensee or

applicant, including, but not limited to, surrender of the license upon grounds for which denial or discipline is authorized in this state;

(9) A person is finally adjudged incapacitated by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not registered and currently eligible to practice under this chapter;

(11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;

(12) Failure to display a valid certificate or license if so required by this chapter or any rule promulgated hereunder;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(15) Violation of the drug laws or rules and regulations of this state, any other state or the federal government;

(16) The intentional act of substituting or otherwise changing the content, formula or brand of any drug prescribed by written or oral prescription without prior written or oral approval from the prescriber for the respective change in each prescription; provided, however, that nothing contained herein shall prohibit a pharmacist from substituting or changing the brand of any drug as provided under section 338.056, and any such substituting or changing of the brand of any drug as provided for in section 338.056 shall not be deemed unprofessional or dishonorable conduct unless a violation of section 338.056 occurs;

(17) Personal use or consumption of any controlled substance unless it is prescribed, dispensed, or administered by a health care provider who is authorized by law to do so.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 **of this section**, for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license, certificate, or permit. The board may impose additional discipline on a licensee, registrant, or permittee found to have violated any disciplinary terms previously imposed under this section or by agreement. The additional discipline may include, singly or in combination, censure, placing the licensee, registrant, or permittee named in the complaint on additional probation on such terms and conditions as the board deems appropriate, which additional probation shall not exceed five years, or suspension for a period not to exceed three years, or revocation of the license, certificate, or permit.

4. If the board concludes that a licensee or registrant has committed an act or is engaging in a course of conduct which would be grounds for disciplinary action which constitutes a clear and present danger to the public health and safety, the board may file a complaint before the administrative hearing commission requesting an expedited hearing and specifying the activities which give rise to the danger and the nature of the proposed restriction or suspension of the licensee's or registrant's license. Within fifteen days after service of the complaint on the licensee or registrant, the administrative hearing commission shall conduct a preliminary hearing to determine whether the alleged activities of the licensee or registrant appear to constitute a clear and present danger to the public health and safety which justify that the licensee's or registrant's license or registration be immediately restricted or suspended. The burden of proving that the actions of a licensee or registrant constitute a clear and present danger to the public health and safety shall be upon the state board of pharmacy. The administrative hearing commission shall issue its decision immediately after the hearing and shall either grant to the board the authority to suspend or restrict the license or dismiss the action.

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5. If the administrative hearing commission grants temporary authority to the board to restrict or suspend the licensee's or registrant's license, such temporary authority of the board shall become final authority if there is no request by the licensee or registrant for a full hearing within thirty days of the preliminary hearing. The administrative hearing commission shall, if requested by the licensee or registrant named in the complaint, set a date to hold a full hearing under the provisions of chapter 621 regarding the activities alleged in the initial complaint filed by the board.

6. If the administrative hearing commission dismisses the action filed by the board pursuant to subsection 4 of this section, such dismissal shall not bar the board from initiating a subsequent action on the same grounds.

**338.330. DEFINITIONS.** — As used in sections 338.300 to 338.370, the following terms mean:

- (1) **"Legend drug", any drug or biological product;**
  - (a) **Subject to section 503(b) of the Federal Food, Drug and Cosmetic Act, including finished dosage forms and active ingredients subject to section 503(b); or**
  - (b) **Required under federal law to be labeled with one of the following statements prior to being dispensed or delivered:**
    - a. **"Caution: Federal law prohibits dispensing without prescription";**
    - b. **"Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian";**
    - c. **"Rx Only"; or**
    - (c) **Required by an applicable federal or state law or regulation to be dispensed by prescription only or that is restricted to use by practitioners only; and**
    - (d) **The term "drug", "prescription drug", or "legend drug" shall not include:**
      - a. **An investigational new drug, as defined by 21 CFR 312.3(b), that is being utilized for the purposes of conducting a clinical investigation of that drug or product that is governed by, and being conducted pursuant to, 21 CFR 312, et. seq.;**
      - b. **Any drug product being utilized for the purposes of conducting a clinical investigation that is governed by, and being conducted pursuant to, 21 CFR 312, et. seq.;**
      - or
      - c. **Any drug product being utilized for the purposes of conducting a clinical investigation that is governed or approved by an institutional review board subject to 21 CFR Part 56 or 45 CFR Part 46;**
- (2) **"Out-of-state wholesale drug distributor", a wholesale drug distributor with no physical facilities located in the state;**
- [(2)] (3) **"Pharmacy distributor", any licensed pharmacy, as defined in section 338.210, engaged in the delivery or distribution of legend drugs to any other licensed pharmacy where such delivery or distribution constitutes at least five percent of the total gross sales of such pharmacy;**
- [(3)] (4) **"Wholesale drug distributor", anyone engaged in the delivery or distribution of legend drugs from any location and who is involved in the actual, constructive or attempted transfer of a drug or drug-related device in this state, other than to the ultimate consumer. This shall include, but not be limited to, drug wholesalers, repackagers and manufacturers which are engaged in the delivery or distribution of drugs in this state, with facilities located in this state or in any other state or jurisdiction. A wholesale drug distributor shall not include any common carrier or individual hired solely to transport legend drugs. Any locations where drugs are delivered on a consignment basis, as defined by the board, shall be exempt from licensure as a drug distributor, and those standards of practice required of a drug distributor but shall be open for inspection by board of pharmacy representatives as provided for in section 338.360.**

**SECTION B. EMERGENCY CLAUSE.** — Because immediate action is necessary to ensure the continuance of clinical trials in this state, the repeal and reenactment of section 338.330 of section

A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 338.330 of section A of this act shall be in full force and effect upon its passage and approval.

Approved July 11, 2011

SB 306 [SS SB 306]

**EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

**Modifies laws relating to the administration of credit unions.**

AN ACT to repeal sections 370.100, 370.157, 370.310, 370.320, 370.353, and 370.359, RSMo, and to enact in lieu thereof thirteen new sections relating to credit unions, with penalty provisions.

SECTION

- A. Enacting clause.
- 370.100. Division director — powers — qualifications — examiners and assistants.
- 370.101. Oath required, when — conflict of interest, when — administrative subpoena powers.
- 370.102. Confidentiality oath required, exceptions — confidentiality of information.
- 370.157. Director may remove officers, procedure.
- 370.161. Notice of intention to remove, contents, procedure.
- 370.162. Appeal to circuit court, when.
- 370.163. Suspension of director or officer permitted, when, procedure.
- 370.164. Suspension, effect on board of directors, procedure.
- 370.165. Effective date of notice of suspension.
- 370.310. Limitations on loans — installment loans — repayment — loans to directors and committee members, report required.
- 370.320. Reserve fund required.
- 370.353. Submission of plan to meeting of members or shareholders — notice.
- 370.359. Conversion from state to federal or federal to state credit union, procedure.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 370.100, 370.157, 370.310, 370.320, 370.353, and 370.359, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 370.100, 370.101, 370.102, 370.157, 370.161, 370.162, 370.163, 370.164, 370.165, 370.310, 370.320, 370.353, and 370.359, to read as follows:

**370.100. DIVISION DIRECTOR — POWERS — QUALIFICATIONS — EXAMINERS AND ASSISTANTS.** — 1. There is created within the state [division of finance, a supervisor of credit unions] **department of insurance, financial institutions and professional registration, a director of the division of credit unions** who shall have exclusive supervision of all credit unions operating under the laws of this state and may make necessary rules and regulations to carry out the provisions of this chapter.

2. The [supervisor] **director** of credit unions shall be appointed by the [commissioner of finance] **governor with the advice and consent of the senate** to serve at his **or her** pleasure.

3. The [supervisor] **director** of credit unions shall maintain his **or her** office at Jefferson City, Missouri, and shall devote all of his **or her** time to the duties of his **or her** office.

4. No person shall be eligible to be appointed to the office unless he **or she** has had at least three years actual practical experience with credit union operation or unless he **or she** has served

for the same period of time in the agency having charge of credit union operation in this or some other state of the United States, or in the national credit union administration.

5. The [supervisor of credit unions, with the approval of the commissioner of finance,] **director** may appoint a deputy [supervisor] **director** of credit unions and such examiners, assistant examiners and other employees and assistants as he **or she** shall deem necessary to properly discharge his **or her** duties as [supervisor of credit unions] **director**.

6. The actual and necessary traveling and other divisional or office expenses of the [supervisor of credit unions] **director**, the deputy [supervisor] **director**, and other assistants and employees shall be paid out of the state treasury as provided by law.

7. The examiners and any person appointed as deputy [supervisor] **director** shall possess the qualifications required for the [supervisor of credit unions, except that any person who was, prior to the date of the enactment of this law, employed by the state division of finance and whose duties were, at the time of the enactment of this law, principally concerned with credit unions and had been so concerned for not less than one year shall be eligible to serve as deputy supervisor or examiner. Appointment of examiners and assistant examiners shall be so made that, as near as may be, one-half of their number, respectively, shall be members of the political party polling the highest number of votes for governor at the last preceding state election, the remaining one-half shall be members of the political party polling the next highest number of votes for governor at the last preceding state election] **director**.

8. All persons appointed by the [supervisor of credit unions] **director** as authorized herein shall perform the duties required of them by the [supervisor of credit unions] **director**, and shall devote all of their time to their official duties.

**370.101. OATH REQUIRED, WHEN — CONFLICT OF INTEREST, WHEN — ADMINISTRATIVE SUBPOENA POWERS. — 1. The director of the division of credit unions and all employees of the division of credit unions, which term shall, for purposes of this section, include special agents, shall, before entering upon the discharge of their duties, take an oath that they will not reveal the conditions or affairs of any credit union or any facts pertaining to the same, that may come to their knowledge by virtue of their official positions, unless required by law to do so in the discharge of the duties of their offices or when testifying in any court proceeding. For purposes of this section, "credit union" shall mean any entity subject to chartering, licensing, or regulation by the division of credit unions.**

**2. Neither the director of the division of credit unions nor any employees of the division of credit unions who participate in the examination of any credit union, or who may be called upon to make any official decision or determination affecting the operation of any credit union, other than the members of the credit union commission, shall be an officer or director of any credit union the division of credit unions regulates, nor shall they receive, directly or indirectly, any payment or gratuity from any such organization, nor engage in the negotiation of loans for others with any state-chartered credit union, nor shall be indebted to any state-chartered credit union.**

**3. The director of the division of credit unions, in connection with any examination or investigation of any person, company, or event, shall have the authority to compel the production of documents, in whatever form they may exist, and shall have the authority to compel the attendance of and administer oaths to any person having knowledge of any issue involved with the examination or investigation. The director may seek judicial enforcement of an administrative subpoena by application to the appropriate court. An administrative subpoena shall be subject to the same defenses or subject to a protective order or conditions as provided and deemed appropriate by the court in accordance with the Missouri supreme court rules.**

**370.102. CONFIDENTIALITY OATH REQUIRED, EXCEPTIONS — CONFIDENTIALITY OF INFORMATION.** — 1. To ensure the integrity of the examination process, the director of the division of credit unions and all employees of the division of credit unions, and its special agents, shall be bound under oath to keep secret all facts and information obtained in the course of all examinations and investigations except:

(1) To the extent that the public duty of the director requires the director to report information to another government official or agency or take administrative or judicial enforcement action regarding the affairs of a state-chartered credit union;

(2) When called as a witness in a court proceeding relating to such state-chartered credit union's safety and soundness or in any criminal proceeding;

(3) When reporting on the condition of the state-chartered credit union to the officers and directors of the state-chartered credit union;

(4) When reporting findings to a complainant, provided the disclosure is limited to such complainant's account information;

(5) When exchanging information with any agency which regulates financial institutions under federal law or the laws of any state when the director of the division of credit unions determines that the sharing of information is necessary for the proper performance by the director of the division of credit unions and the other agencies, that such information will remain confidential as though subject to section 370.101 and this section and that said agencies routinely share information with the division of credit unions;

(6) When authorized by the state-chartered credit union's board of directors to provide the information to anyone else; or

(7) When disclosure is necessary or required, the director may set conditions and limitations, including an agreement of confidentiality or a judicial or administrative protective order.

2. In all other circumstances, facts and information obtained by the director of the division of credit unions and the employees and special agents of the division of credit unions through examinations or investigations shall be held in confidence absent a court's finding of compelling reasons for disclosure. Such finding shall demonstrate that the need for the information sought outweighs the public interest in free and open communications during the examination or investigation process. To assure a meaningful hearing, any state-chartered credit union that is not already a party to the judicial proceeding and whose information is the subject of a records request or subpoena shall be joined or notified and permitted to intervene in the hearing and to participate regarding the production request or subpoena. In no event shall a state-chartered credit union, or any officer, director, or employee thereof, be charged with libel, slander, or defamation for any good faith communications with the director of the division of credit unions or any employees of the division of credit unions.

**370.157. DIRECTOR MAY REMOVE OFFICERS, PROCEDURE.** — 1. [The director may remove any or all the officers, committee members and directors and either appoint successors or call a meeting of the members to hold elections, notice of the meeting to be given as provided in this section for special meetings of the members for reorganization.

2. Unless removed by the director, the officers, committee members and directors shall continue in their respective offices until their successors are elected and qualify] **Whenever it shall appear to the director, from any examination made by him or her or her or his examiners, that any director, officer, or any other person participating in the conduct of the affairs of a credit union subject to this chapter has committed any violation of law or regulation or of a cease and desist order, or has violated any condition imposed in writing by the director or any written agreement between such credit union and the director, or**



has engaged or participated in any unsafe or unsound practice in connection with the credit union, or has committed or engaged in any act, omission, or practice which constitutes a breach of his or her fiduciary duty to the credit union, and the director determines that the credit union has suffered or will probably suffer financial loss or other damage or that the interests of its members could be prejudiced by reason of such violation or practice or breach of fiduciary duty, or that the director or officer or other person has received financial gain by reason of such violation or practice or breach of fiduciary duty, and such violation or practice or breach of fiduciary duty is one involving personal dishonesty on the part of such director, officer or other person, or one which demonstrates a willful or continuing disregard for the safety or soundness of the credit union, the director may serve upon such director, officer, or other person a written notice of his or her intention to remove such person from office.

2. When it shall appear to the director from any examination made by him or her or his or her examiners that any director, officer, or any other person participating in the conduct of the affairs of a credit union subject to this chapter, by conduct or practice with respect to another such credit union or any business institution which resulted in financial loss or other damage, has evidenced either his or her personal dishonesty or a willful or continuing disregard for its safety and soundness and, in addition, has evidenced his or her unfitness to continue as a director or officer and whenever it shall appear to the director that any other person participating in the conduct of the affairs of a credit union subject to this chapter, by conduct or practice with respect to such credit union or other corporation or other business institution which resulted in financial loss or other damage, has evidenced either his or her personal dishonesty or willful or continuing disregard for its safety and soundness and, in addition, has evidenced his or her unfitness to participate in the conduct of the affairs of such credit union, the director may serve upon such director, officer, or other person a written notice of intention to remove him or her from office or to prohibit his or her further participation in any manner in the conduct of the affairs of this credit union or from any other credit union supervised by the director.

3. Whenever it shall appear to the director to be necessary for the protection of any credit union or its members, he or she may, by written notice to such effect served upon any director, officer, or other person referred to in subsection 1 or 2 of this section, suspend him or her from office or prohibit him or her from further participation in any manner in the conduct of the affairs of the credit union. Such suspension or prohibition shall become effective upon service of such notice and shall remain in effect pending the completion of the administrative proceedings under the notice served under subsection 1 or 2 of this section and until such time as the director shall dismiss the charges specified in such notice or, if an order of removal or prohibition is issued against the director or officer or other person, until the effective date of any such order. Copies of any such notice shall also be served upon the credit union of which he or she is a director or officer or in the conduct of whose affairs he or she has participated.

4. Except as provided in subsection 5 of this section, any person who, pursuant to an order issued under this section, has been removed or suspended from office in a credit union or prohibited from participating in the conduct of the affairs of a credit union may not, while such order is in effect, continue or commence to hold any office in, or participate in any manner in, the conduct of the affairs of any other credit union subject to the provisions of this chapter.

5. If, on or after the date an order is issued under this section which removes or suspends from office any person or prohibits such person from participating in the conduct of the affairs of a credit union, such party receives the written consent of the director, subsection 4 of this section shall, to the extent of such consent, cease to apply to such person with respect to the credit union described in the written consent and the

director shall publicly disclose such consent. Any violation of subsection 4 of this section by any person who is subject to an order described in subsection 4 of this section shall be treated as a violation of the order.

**370.161. NOTICE OF INTENTION TO REMOVE, CONTENTS, PROCEDURE.** — A notice of intention to remove a director, officer, or other person from office or to prohibit his or her participation in the conduct of the affairs of a credit union shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon. Unless such director, officer, or other person shall appear at the hearing in person, or by a duly authorized representative, he or she shall be deemed to have consented to the issuance of an order of such removal or prohibition. In the event of such consent or if upon the record made at any such hearing the director shall find that any of the grounds specified in such notice have been established, the director may issue such orders of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the credit union, as he or she may deem appropriate. Any such order shall become effective at the expiration of thirty days after service upon such credit union and the director, officer, or other person concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the director or a reviewing court.

**370.162. APPEAL TO CIRCUIT COURT, WHEN.** — Within ten days after any director, officer, or other person has been suspended from office, prohibited from participation in the conduct of the affairs of a credit union, or both, under subsection 3 of section 370.157, such director, officer, or other person may apply to the circuit court of the county in which the credit union is located or the circuit court of Cole County, for a stay of such suspension or prohibition pending the completion of the administrative proceedings under the notice served upon such director, officer, or other person under subsection 1 or 2 of section 370.157, and such court shall have jurisdiction to stay such suspension or prohibition.

**370.163. SUSPENSION OF DIRECTOR OR OFFICER PERMITTED, WHEN, PROCEDURE.** — Whenever a director or officer of a credit union, or other person participating in the conduct of the affairs of such credit union, is charged in any information or complaint authorized by a prosecuting attorney or a United States attorney, or in any indictment, with the commission of or participation in a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under state or federal law, the director may, if continued service or participation by the individual may pose a threat to the interests of the credit union's members or may threaten to impair the confidence in the credit union, by written notice served upon such director, officer, or other person, suspend him or her from office or prohibit him or her from further participation in any manner in the conduct of the affairs of the credit union. A copy of such notice shall also be served upon the credit union. Such suspension or prohibition shall remain in effect until such information, indictment or complaint is finally disposed of or until terminated by the director. In the event that a judgment of conviction with respect to such crime is entered against such director, officer, or other person, and at such time as such judgment is not subject to further appellate review, the director may, if continued service or participation by the individual may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union, initiate action to remove such officer as described in subsection 1 of section 370.157.

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**370.164. SUSPENSION, EFFECT ON BOARD OF DIRECTORS, PROCEDURE.** — If at any time because of the suspension of one or more directors under sections 370.157 or 370.161 to 370.165 there shall be on the board of directors of a credit union less than a quorum of directors not so suspended, all powers or functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors. In the event all of the directors of a corporation are suspended under sections 370.157 or 370.161 to 370.165, the director shall appoint persons to serve temporarily as directors in their place and stead pending the termination of such suspensions, or until such time as those who have been suspended cease to be directors of the credit union and their respective successors take office.

**370.165. EFFECTIVE DATE OF NOTICE OF SUSPENSION.** — A notice of suspension or order of removal issued under this chapter shall become effective immediately but any director, officer, or other person concerned may, within thirty days of service of any notice of suspension or order of removal, request, in writing, an opportunity to appear before the director to show that the continued service to or participation in the conduct of the affairs of the credit union by such individual does not, or is not likely to, pose a threat to the interests of the credit union's depositors or threaten to impair public confidence in the credit union.

**370.310. LIMITATIONS ON LOANS — INSTALLMENT LOANS — REPAYMENT — LOANS TO DIRECTORS AND COMMITTEE MEMBERS, REPORT REQUIRED.** — 1. A credit union may lend to its members, as herein provided, for such purposes and upon such security as the bylaws provide and the credit committee or credit manager shall approve, provided that no secured or unsecured loan shall be made in excess of two thousand dollars, except that if ten percent of the assets of the credit union exceeds two thousand dollars then the maximum amount of a loan by the credit union shall be ten percent of its assets, and unsecured loans to any one member shall not exceed the limitations found in current written policies of the board of directors.

2. A member who needs funds with which to purchase necessary supplies for growing crops may receive a loan in installments instead of one sum.

3. A borrower may repay the whole or any part of his loan on any day on which the office of the credit union is open for the transaction of business.

4. All loans to directors, credit and supervisory committee members of the credit union shall comply with all the requirements in this chapter and the credit union bylaws with respect to loans to other members and may not be on terms more favorable than those of loans extended to other member-borrowers [except that such loans, other than those secured by mortgages on primary and secondary borrower-occupied residences, negotiable securities, licensed motor vehicles, or shares shall not exceed twenty-five thousand dollars for each official] and such loans shall also be reported at the next regularly scheduled meeting of the board of directors; and further, all such loans shall be reported to the director of the division of credit unions annually.

**370.320. RESERVE FUND REQUIRED.** — [1. All entrance fees, transfer fees and charges shall, after the payment of the organization expenses, be known as reserve income, and shall be added to the reserve fund of the credit union.

2. At the end of each accounting period the gross income shall be determined. From this amount there shall be set apart to the reserve fund amounts in accord with the following schedule:

(1) A credit union in operation for more than four years and having assets of five hundred thousand dollars or more shall set aside:

(a) Ten percent of gross income until the reserve equals four percent of the outstanding loans to members; and thereafter

(b) Five percent of gross income until the reserve equals six percent of outstanding loans to members; or

(2) A credit union in operation less than four years or having assets of less than five hundred thousand dollars shall set aside:

(a) Ten percent of gross income until the reserve equals seven and one-half percent of outstanding loans to members; and thereafter

(b) Five percent of gross income until the reserve equals ten percent of outstanding loans to members.

3. As used in this section, "outstanding loans to members" does not include loans to other credit unions, loans fully secured by a member's shares, loans made under Title I of the National Housing Act, or loans made under a federal or state student loan program or another similar loan program where the loan is guaranteed by an agency of the federal or state government.

4. The board of directors may increase or, where such fund equals or exceeds the total reserve required in subsection 2 of this section, decrease the proportion of gross income to be set aside as the reserve fund, and may transfer part or all of the undivided earnings to the reserve fund.

5. The board of directors may establish additional reserves. In addition, a special reserve for delinquent loans shall be established when required by regulation of the director of the division of credit unions] **All credit unions shall establish and maintain reserves sufficient to qualify for and maintain federal share insurance and meet any requirements concerning minimum reserves established by the director of the credit unions by regulation.**

**370.353. SUBMISSION OF PLAN TO MEETING OF MEMBERS OR SHAREHOLDERS — NOTICE.** — 1. The board of directors of the merging credit union or credit unions, upon approving the plan of merger or consolidation, shall direct, by a resolution, that the plan be submitted at a meeting of the members or shareholders, which may be either an annual or special meeting. Notice of the meeting shall be [given as provided in the bylaws of each credit union affected, or by letter addressed to the last known address, as reflected on the books of the credit union, to each member or shareholder thereof] **mailed or delivered to each member not more than thirty days and not less than fourteen days prior to the meeting. All members shall be given the opportunity to vote on the plan of merger or consolidation at a meeting or by written or electronic ballot received no later than the date and time announced for the meeting. All members should be provided the opportunity to vote, without being required to attend the meeting where the proposition is voted on.** The notice, whether the meeting is an annual or special meeting, shall state the place, day, hour, and purpose of the meeting, and a copy or summary of the plan of merger or plan of consolidation shall be included in or enclosed with the notice. The board of directors of the surviving credit union named in any such plan of merger need not submit the merger plan to its members but shall, instead, ratify such merger plan according to the procedure stated in section 370.351.

2. In the case of a consolidation, the board of directors of each credit union party to such plan of consolidation must submit the plan of consolidation to its members according to the procedure described in subsection 1 of this section.

3. The director may waive any membership meeting required under subsections 1 and 2 of this section upon the request of the board of directors of any of the merging or consolidating credit unions if the credit union seeking the waiver is in financial difficulty, if its field of membership is being lost or substantially reduced, or if it has only limited potential of growth.

**370.359. CONVERSION FROM STATE TO FEDERAL OR FEDERAL TO STATE CREDIT UNION, PROCEDURE.** — 1. A credit union holding a certificate of organization under the laws of this state may be converted into a federal credit union under the laws of the United States by complying with the following requirements:

(1) The proposition for the conversion shall first be approved, and a date set for a vote thereon by the members, either at a meeting to be held on the date or by [written] ballot to be [filed] **cast** on or before the date, by a majority of the directors of the state credit union. Written notice of the proposition and of the date set for the vote shall then be delivered in person to each member, or mailed **or delivered** to each member at the address for the member appearing on the records of the credit union, not more than thirty nor less than [seven] **fourteen** days prior to the date. Approval of the proposition for conversion shall be by the affirmative vote of a majority of the members[, in person or in writing] **who vote by written or electronic ballot. All members should be provided the opportunity to vote, without being required to attend the meeting where the proposition is voted on.**

(2) A statement of the results of the vote, verified by the affidavits of the president or vice president and the secretary, shall be filed with the director of the division of credit unions and the secretary of state within ten days after the vote is taken.

(3) Promptly after the vote is taken and in no event later than ninety days thereafter, if the proposition for conversion was approved by the vote, the credit union shall take such action as may be necessary under the United States law to make it a federal credit union, and within ten days after receipt of the federal credit union charter there shall be filed with the secretary of state and the director of the division of credit unions, a copy of the charter thus issued. Upon filing, the credit union shall cease to be a state credit union.

(4) Upon ceasing to be a state credit union, the credit union shall no longer be subject to any of the provisions of this chapter. The successor federal credit union shall be vested with all of the assets and shall continue responsible for all the obligations of the state credit union to the same extent as though the conversion had not taken place.

2. A federal credit union, organized under the laws of the United States, may be converted into a state credit union by:

(1) Complying with all federal requirements requisite to enabling it to convert to a state credit union;

(2) Filing with the director of the division of credit unions proof of the compliance, satisfactory to him; and

(3) Filing with the director of the division of credit unions a certificate of organization as required by this chapter.

3. When the director of the division of credit unions has been satisfied that all of these requirements, and all other requirements of this chapter, have been complied with, he shall approve the organization certificate, a copy of which shall be filed with the secretary of state. Upon approval, the federal credit union shall become a state credit union as of the date it ceases to be a federal credit union. The state credit union shall be vested with all of the assets and shall continue responsible for all of the obligations of the federal credit union to the same extent as though the conversion had not taken place.

Approved July 5, 2011

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SB 320 [SS#2 SCS SB 320]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**Modifies provisions relating to domestic violence.**

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AN ACT to repeal sections 43.545, 211.031, 452.375, 455.010, 455.020, 455.027, 455.035, 455.038, 455.040, 455.050, 455.060, 455.085, 455.200, 455.501, 455.505, 455.513, 455.516, 455.520, 455.523, 455.538, 455.540, 455.543, 527.290, 565.074, 589.683, 595.100, and 595.220, RSMo, and to enact in lieu thereof twenty-seven new sections relating to domestic violence, with penalty provisions.

#### SECTION

- A. Enacting clause.
- 43.545. Highway patrol to include incidents of domestic violence in the Crime in Missouri.
- 211.031. Juvenile court to have exclusive jurisdiction, when — exceptions — home schooling, attendance violations, how treated.
- 452.375. Custody — definitions — factors determining custody — prohibited, when — public policy of state — custody options plan, when required — findings required, when — exchange of information and right to certain records, failure to disclose — fees, costs assessed, when — joint custody not to preclude child support — support, how determined — domestic violence or abuse, specific findings.
- 455.010. Definitions.
- 455.020. Relief may be sought — order of protection effective, where.
- 455.027. No filing fee, court cost, or bond shall be required.
- 455.035. Protection orders — ex parte.
- 455.038. Ex parte orders, notification — circuit clerks to provide information on.
- 455.040. Hearings, when — duration of orders, renewal, requirements — copies of orders to be given, validity — duties of law enforcement agency — information entered in MULES.
- 455.050. Full or ex parte order of protection, abuse or stalking, contents — relief available.
- 455.060. Modification of orders, when — termination, when — appeal — custody of children, may not be changed, when.
- 455.085. Arrest for violation of order — penalties — good faith immunity for law enforcement officials.
- 455.200. Definitions.
- 455.505. Relief may be sought for child for domestic violence or child being stalked — order of protection effective, where.
- 455.513. Ex parte orders, issued when, effective when — for good cause shown, defined — investigation by division of family services, when — report due when, available to whom — transfer to juvenile court, when.
- 455.516. Hearings, when, procedure, standard of proof — duration of orders — videotaped testimony permitted — renewal of orders, when — service of respondent, failure to serve not to affect validity of order — notice to law enforcement agencies — service of process.
- 455.520. Temporary relief available — ex parte orders.
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- 455.538. Law enforcement agencies response to violation of order — arrest for violation, penalties — custody to be returned to rightful party, when.
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- 589.683. Inapplicability of Missouri sunset act.
- 595.100. Funding, administration.
- 595.220. Forensic examinations, department of public safety to pay medical providers, when — minor may consent to examination, when — attorney general to develop forms — collection kits — definitions — rulemaking authority.
- 455.501. Definitions.
- 455.540. Definitions.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 43.545, 211.031, 452.375, 455.010, 455.020, 455.027, 455.035, 455.038, 455.040, 455.050, 455.060, 455.085, 455.200, 455.501, 455.505, 455.513, 455.516, 455.520, 455.523, 455.538, 455.540, 455.543, 527.290, 565.074, 589.683, 595.100, and 595.220, RSMo, are repealed and twenty-seven new sections enacted in lieu thereof, to be known as sections 43.545, 211.031, 452.375, 455.010, 455.020, 455.027, 455.035, 455.038, 455.040, 455.050, 455.060, 455.085, 455.200, 455.505, 455.513, 455.516, 455.520, 455.523, 455.538, 455.543, 455.549, 455.800, 527.290, 565.074, 589.683, 595.100, and 595.220, to read as follows:

**43.545. HIGHWAY PATROL TO INCLUDE INCIDENTS OF DOMESTIC VIOLENCE IN THE CRIME IN MISSOURI.** — The state highway patrol shall include in its voluntary system of reporting for compilation in the ["Missouri Crime Index"] "**Crime in Missouri**" all reported incidents of domestic violence **as defined in section 455.010**, whether or not an arrest is made. All incidents shall be reported on forms provided by the highway patrol and in a manner prescribed by the patrol. [For purposes of this section only, "domestic violence" shall be defined as any dispute arising between spouses, former spouses, persons related by blood or marriage, individuals who are presently residing together or have resided together in the past and persons who have a child in common regardless of whether they have been married or have resided together at any time.]

**211.031. JUVENILE COURT TO HAVE EXCLUSIVE JURISDICTION, WHEN — EXCEPTIONS — HOME SCHOOLING, ATTENDANCE VIOLATIONS, HOW TREATED.** — 1. Except as otherwise provided in this chapter, the juvenile court or the family court in circuits that have a family court as provided in sections 487.010 to 487.190 shall have exclusive original jurisdiction in proceedings:

(1) Involving any child or person seventeen years of age who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The parents, or other persons legally responsible for the care and support of the child or person seventeen years of age, neglect or refuse to provide proper support, education which is required by law, medical, surgical or other care necessary for his or her well-being; except that reliance by a parent, guardian or custodian upon remedial treatment other than medical or surgical treatment for a child or person seventeen years of age shall not be construed as neglect when the treatment is recognized or permitted pursuant to the laws of this state;

(b) The child or person seventeen years of age is otherwise without proper care, custody or support; or

(c) The child or person seventeen years of age was living in a room, building or other structure at the time such dwelling was found by a court of competent jurisdiction to be a public nuisance pursuant to section 195.130;

(d) The child or person seventeen years of age is a child in need of mental health services and the parent, guardian or custodian is unable to afford or access appropriate mental health treatment or care for the child;

(2) Involving any child who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The child while subject to compulsory school attendance is repeatedly and without justification absent from school; or

(b) The child disobeys the reasonable and lawful directions of his or her parents or other custodian and is beyond their control; or

(c) The child is habitually absent from his or her home without sufficient cause, permission, or justification; or

(d) The behavior or associations of the child are otherwise injurious to his or her welfare or to the welfare of others; or

(e) The child is charged with an offense not classified as criminal, or with an offense applicable only to children; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(3) Involving any child who is alleged to have violated a state law or municipal ordinance, or any person who is alleged to have violated a state law or municipal ordinance prior to attaining the age of seventeen years, in which cases jurisdiction may be taken by the court of the circuit in

which the child or person resides or may be found or in which the violation is alleged to have occurred; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, and except that the juvenile court shall have concurrent jurisdiction with the municipal court over any child who is alleged to have violated a municipal curfew ordinance, and except that the juvenile court shall have concurrent jurisdiction with the circuit court on any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(4) For the adoption of a person;

(5) For the commitment of a child or person seventeen years of age to the guardianship of the department of social services as provided by law; **and**

**(6) Involving an order of protection pursuant to chapter 455 when the respondent is less than seventeen years of age.**

2. Transfer of a matter, proceeding, jurisdiction or supervision for a child or person seventeen years of age who resides in a county of this state shall be made as follows:

(1) Prior to the filing of a petition and upon request of any party or at the discretion of the juvenile officer, the matter in the interest of a child or person seventeen years of age may be transferred by the juvenile officer, with the prior consent of the juvenile officer of the receiving court, to the county of the child's residence or the residence of the person seventeen years of age for future action;

(2) Upon the motion of any party or on its own motion prior to final disposition on the pending matter, the court in which a proceeding is commenced may transfer the proceeding of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age, or the county in which the offense pursuant to subdivision (3) of subsection 1 of this section is alleged to have occurred for further action;

(3) Upon motion of any party or on its own motion, the court in which jurisdiction has been taken pursuant to subsection 1 of this section may at any time thereafter transfer jurisdiction of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age for further action with the prior consent of the receiving court;

(4) Upon motion of any party or upon its own motion at any time following a judgment of disposition or treatment pursuant to section 211.181, the court having jurisdiction of the cause may place the child or person seventeen years of age under the supervision of another juvenile court within or without the state pursuant to section 210.570 with the consent of the receiving court;

(5) Upon motion of any child or person seventeen years of age or his or her parent, the court having jurisdiction shall grant one change of judge pursuant to Missouri Supreme Court Rules;

(6) Upon the transfer of any matter, proceeding, jurisdiction or supervision of a child or person seventeen years of age, certified copies of all legal and social documents and records pertaining to the case on file with the clerk of the transferring juvenile court shall accompany the transfer.

3. In any proceeding involving any child or person seventeen years of age taken into custody in a county other than the county of the child's residence or the residence of a person seventeen years of age, the juvenile court of the county of the child's residence or the residence of a person seventeen years of age shall be notified of such taking into custody within seventy-two hours.

4. When an investigation by a juvenile officer pursuant to this section reveals that the only basis for action involves an alleged violation of section 167.031 involving a child who alleges to be home schooled, the juvenile officer shall contact a parent or parents of such child to verify that the child is being home schooled and not in violation of section 167.031 before making a report of such a violation. Any report of a violation of section 167.031 made by a juvenile officer regarding a child who is being home schooled shall be made to the prosecuting attorney of the county where the child legally resides.

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**452.375. CUSTODY — DEFINITIONS — FACTORS DETERMINING CUSTODY — PROHIBITED, WHEN — PUBLIC POLICY OF STATE — CUSTODY OPTIONS PLAN, WHEN REQUIRED — FINDINGS REQUIRED, WHEN — EXCHANGE OF INFORMATION AND RIGHT TO CERTAIN RECORDS, FAILURE TO DISCLOSE — FEES, COSTS ASSESSED, WHEN — JOINT CUSTODY NOT TO PRECLUDE CHILD SUPPORT — SUPPORT, HOW DETERMINED — DOMESTIC VIOLENCE OR ABUSE, SPECIFIC FINDINGS.** — 1. As used in this chapter, unless the context clearly indicates otherwise:

(1) "Custody" means joint legal custody, sole legal custody, joint physical custody or sole physical custody or any combination thereof;

(2) "Joint legal custody" means that the parents share the decision-making rights, responsibilities, and authority relating to the health, education and welfare of the child, and, unless allocated, apportioned, or decreed, the parents shall confer with one another in the exercise of decision-making rights, responsibilities, and authority;

(3) "Joint physical custody" means an order awarding each of the parents significant, but not necessarily equal, periods of time during which a child resides with or is under the care and supervision of each of the parents. Joint physical custody shall be shared by the parents in such a way as to assure the child of frequent, continuing and meaningful contact with both parents;

(4) "Third-party custody" means a third party designated as a legal and physical custodian pursuant to subdivision (5) of subsection 5 of this section.

2. The court shall determine custody in accordance with the best interests of the child. The court shall consider all relevant factors including:

(1) The wishes of the child's parents as to custody and the proposed parenting plan submitted by both parties;

(2) The needs of the child for a frequent, continuing and meaningful relationship with both parents and the ability and willingness of parents to actively perform their functions as mother and father for the needs of the child;

(3) The interaction and interrelationship of the child with parents, siblings, and any other person who may significantly affect the child's best interests;

(4) Which parent is more likely to allow the child frequent, continuing and meaningful contact with the other parent;

(5) The child's adjustment to the child's home, school, and community;

(6) The mental and physical health of all individuals involved, including any history of abuse of any individuals involved. If the court finds that a pattern of domestic violence **as defined in section 455.010** has occurred, and, if the court also finds that awarding custody to the abusive parent is in the best interest of the child, then the court shall enter written findings of fact and conclusions of law. Custody and visitation rights shall be ordered in a manner that best protects the child and any other child or children for whom the parent has custodial or visitation rights, and the parent or other family or household member who is the victim of domestic violence from any further harm;

(7) The intention of either parent to relocate the principal residence of the child; and

(8) The wishes of a child as to the child's custodian. The fact that a parent sends his or her child or children to a home school, as defined in section 167.031, shall not be the sole factor that a court considers in determining custody of such child or children.

3. (1) In any court proceedings relating to custody of a child, the court shall not award custody or unsupervised visitation of a child to a parent if such parent or any person residing with such parent has been found guilty of, or pled guilty to, any of the following offenses when a child was the victim:

(a) A felony violation of section 566.030, 566.032, 566.040, 566.060, 566.062, 566.064, 566.067, 566.068, 566.070, 566.083, 566.090, 566.100, 566.111, 566.151, 566.203, 566.206, 566.209, 566.212, or 566.215;

(b) A violation of section 568.020;

- (c) A violation of subdivision (2) of subsection 1 of section 568.060;
- (d) A violation of section 568.065;
- (e) A violation of section 568.080;
- (f) A violation of section 568.090; or
- (g) A violation of section 568.175.

(2) For all other violations of offenses in chapters 566 and 568 not specifically listed in subdivision (1) of this subsection or for a violation of an offense committed in another state when a child is the victim that would be a violation of chapter 566 or 568 if committed in Missouri, the court may exercise its discretion in awarding custody or visitation of a child to a parent if such parent or any person residing with such parent has been found guilty of, or pled guilty to, any such offense.

4. The general assembly finds and declares that it is the public policy of this state that frequent, continuing and meaningful contact with both parents after the parents have separated or dissolved their marriage is in the best interest of the child, except for cases where the court specifically finds that such contact is not in the best interest of the child, and that it is the public policy of this state to encourage parents to participate in decisions affecting the health, education and welfare of their children, and to resolve disputes involving their children amicably through alternative dispute resolution. In order to effectuate these policies, the court shall determine the custody arrangement which will best assure both parents participate in such decisions and have frequent, continuing and meaningful contact with their children so long as it is in the best interests of the child.

5. Prior to awarding the appropriate custody arrangement in the best interest of the child, the court shall consider each of the following as follows:

(1) Joint physical and joint legal custody to both parents, which shall not be denied solely for the reason that one parent opposes a joint physical and joint legal custody award. The residence of one of the parents shall be designated as the address of the child for mailing and educational purposes;

(2) Joint physical custody with one party granted sole legal custody. The residence of one of the parents shall be designated as the address of the child for mailing and educational purposes;

(3) Joint legal custody with one party granted sole physical custody;

(4) Sole custody to either parent; or

(5) Third-party custody or visitation:

(a) When the court finds that each parent is unfit, unsuitable, or unable to be a custodian, or the welfare of the child requires, and it is in the best interests of the child, then custody, temporary custody or visitation may be awarded to any other person or persons deemed by the court to be suitable and able to provide an adequate and stable environment for the child. Before the court awards custody, temporary custody or visitation to a third person under this subdivision, the court shall make that person a party to the action;

(b) Under the provisions of this subsection, any person may petition the court to intervene as a party in interest at any time as provided by supreme court rule.

6. If the parties have not agreed to a custodial arrangement, or the court determines such arrangement is not in the best interest of the child, the court shall include a written finding in the judgment or order based on the public policy in subsection 4 of this section and each of the factors listed in subdivisions (1) to (8) of subsection 2 of this section detailing the specific relevant factors that made a particular arrangement in the best interest of the child. If a proposed custodial arrangement is rejected by the court, the court shall include a written finding in the judgment or order detailing the specific relevant factors resulting in the rejection of such arrangement.

7. Upon a finding by the court that either parent has refused to exchange information with the other parent, which shall include but not be limited to information concerning the health, education and welfare of the child, the court shall order the parent to comply immediately and to pay the

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prevailing party a sum equal to the prevailing party's cost associated with obtaining the requested information, which shall include but not be limited to reasonable attorney's fees and court costs.

8. As between the parents of a child, no preference may be given to either parent in the awarding of custody because of that parent's age, sex, or financial status, nor because of the age or sex of the child.

9. Any judgment providing for custody shall include a specific written parenting plan setting forth the terms of such parenting plan arrangements specified in subsection 7 of section 452.310. Such plan may be a parenting plan submitted by the parties pursuant to section 452.310 or, in the absence thereof, a plan determined by the court, but in all cases, the custody plan approved and ordered by the court shall be in the court's discretion and shall be in the best interest of the child.

10. Unless a parent has been denied custody rights pursuant to this section or visitation rights under section 452.400, both parents shall have access to records and information pertaining to a minor child, including, but not limited to, medical, dental, and school records. If the parent without custody has been granted restricted or supervised visitation because the court has found that the parent with custody or any child has been the victim of domestic violence, as defined in section [455.200] **455.010**, by the parent without custody, the court may order that the reports and records made available pursuant to this subsection not include the address of the parent with custody or the child. Unless a parent has been denied custody rights pursuant to this section or visitation rights under section 452.400, any judgment of dissolution or other applicable court order shall specifically allow both parents access to such records and reports.

11. Except as otherwise precluded by state or federal law, if any individual, professional, public or private institution or organization denies access or fails to provide or disclose any and all records and information, including, but not limited to, past and present dental, medical and school records pertaining to a minor child, to either parent upon the written request of such parent, the court shall, upon its finding that the individual, professional, public or private institution or organization denied such request without good cause, order that party to comply immediately with such request and to pay to the prevailing party all costs incurred, including, but not limited to, attorney's fees and court costs associated with obtaining the requested information.

12. An award of joint custody does not preclude an award of child support pursuant to section 452.340 and applicable supreme court rules. The court shall consider the factors contained in section 452.340 and applicable supreme court rules in determining an amount reasonable or necessary for the support of the child.

13. If the court finds that domestic violence or abuse, as defined in [sections] **section 455.010** [and 455.501,] has occurred, the court shall make specific findings of fact to show that the custody or visitation arrangement ordered by the court best protects the child and the parent or other family or household member who is the victim of domestic violence [or abuse], as defined in [sections] **section 455.010** [and 455.501], and any other children for whom such parent has custodial or visitation rights from any further harm.

**455.010. DEFINITIONS.** — As used in [sections 455.010 to 455.085] **this chapter**, unless the context clearly indicates otherwise, the following terms shall mean:

(1) "Abuse" includes but is not limited to the occurrence of any of the following acts, attempts or threats against a person who may be protected pursuant to [sections 455.010 to 455.085] **this chapter**, **except abuse shall not include abuse inflicted on a child by accidental means by an adult household member or discipline of a child, including spanking, in a reasonable manner:**

(a) "Assault", purposely or knowingly placing or attempting to place another in fear of physical harm;

(b) "Battery", purposely or knowingly causing physical harm to another with or without a deadly weapon;

(c) "Coercion", compelling another by force or threat of force to engage in conduct from which the latter has a right to abstain or to abstain from conduct in which the person has a right to engage;

(d) "Harassment", engaging in a purposeful or knowing course of conduct involving more than one incident that alarms or causes distress to [another] **an adult or child** and serves no legitimate purpose. The course of conduct must be such as would cause a reasonable adult **or child** to suffer substantial emotional distress and must actually cause substantial emotional distress to the petitioner **or child**. Such conduct might include, but is not limited to:

a. Following another about in a public place or places;

b. Peering in the window or lingering outside the residence of another; but does not include constitutionally protected activity;

(e) "Sexual assault", causing or attempting to cause another to engage involuntarily in any sexual act by force, threat of force, or duress;

(f) "Unlawful imprisonment", holding, confining, detaining or abducting another person against that person's will;

(2) "Adult", any person seventeen years of age or older or otherwise emancipated;

(3) **"Child", any person under seventeen years of age unless otherwise emancipated;**

(4) "Court", the circuit or associate circuit judge or a family court commissioner;

(5) **"Domestic violence", abuse or stalking, as both terms are defined in this section;**

[(4)] (6) "Ex parte order of protection", an order of protection issued by the court before the respondent has received notice of the petition or an opportunity to be heard on it;

[(5)] (7) "Family" or "household member", spouses, former spouses, [adults] **any person** related by blood or marriage, [adults] **persons** who are presently residing together or have resided together in the past, [an adult] **any person** who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, and [adults who have] **anyone who has** a child in common regardless of whether they have been married or have resided together at any time;

[(6)] (8) "Full order of protection", an order of protection issued after a hearing on the record where the respondent has received notice of the proceedings and has had an opportunity to be heard;

[(7)] (9) "Order of protection", either an ex parte order of protection or a full order of protection;

[(8)] (10) **"Pending", exists or for which a hearing date has been set;**

(11) "Petitioner", a family or household member [or an adult] **who has been a victim of domestic violence, or any person** who has been the victim of stalking, **or a person filing on behalf of a child pursuant to section 455.503** who has filed a verified petition pursuant to the provisions of section 455.020 **or section 455.505;**

[(9)] (12) "Respondent", the family or household member **alleged to have committed an act of domestic violence**, or [adult] **person** alleged to have committed an act of stalking, against whom a verified petition has been filed **or a person served on behalf of a child pursuant to section 455.503;**

[(10)] (13) "Stalking" is when [an adult] **any person** purposely and repeatedly engages in an unwanted course of conduct that causes alarm to another person when it is reasonable in that person's situation to have been alarmed by the conduct. As used in this subdivision:

(a) "Alarm" means to cause fear of danger of physical harm;

(b) "Course of conduct" means a pattern of conduct composed of repeated acts over a period of time, however short, that serves no legitimate purpose. Such conduct may include, but is not limited to, following the other person or unwanted communication or unwanted contact; and

(c) "Repeated" means two or more incidents evidencing a continuity of purpose.

**455.020. RELIEF MAY BE SOUGHT — ORDER OF PROTECTION EFFECTIVE, WHERE.** — 1. Any adult who has been subject to [abuse] **domestic violence** by a present or former [adult] family or household member, or who has been the victim of stalking, may seek relief under sections 455.010 to 455.085 by filing a verified petition alleging such [abuse] **domestic violence** or stalking by the respondent.

2. An adult's right to relief under sections 455.010 to 455.085 shall not be affected by his leaving the residence or household to avoid [abuse] **domestic violence**.

3. Any protection order issued pursuant to sections 455.010 to 455.085 shall be effective throughout the state in all cities and counties.

**455.027. NO FILING FEE, COURT COST, OR BOND SHALL BE REQUIRED.** — No filing fees, court costs, or bond shall be assessed to the petitioner in an action commenced pursuant to sections 455.010 to [455.085] **455.090**.

**455.035. PROTECTION ORDERS — EX PARTE.** — 1. Upon the filing of a verified petition pursuant to sections 455.010 to 455.085 and for good cause shown in the petition, the court may immediately issue an ex parte order of protection. An immediate and present danger of abuse to the petitioner shall constitute good cause for purposes of this section. An ex parte order of protection entered by the court shall take effect when entered and shall remain in effect until there is valid service of process and a hearing is held on the motion.

2. Failure to serve an ex parte order of protection on the respondent shall not affect the validity or enforceability of such order. **If the respondent is less than seventeen years of age, unless otherwise emancipated, service of process shall be made upon a parent or guardian of the respondent, or upon a guardian ad litem appointed by the court.**

3. **If an ex parte order is entered and the allegations in the petition would give rise to jurisdiction under section 211.031 because the respondent is less than seventeen years of age, the court shall transfer the case to juvenile court for a hearing on a full order of protection. The court shall appoint a guardian ad litem for any such respondent not represented by a parent or guardian.**

**455.038. EX PARTE ORDERS, NOTIFICATION — CIRCUIT CLERKS TO PROVIDE INFORMATION ON.** — Every circuit clerk shall be responsible for providing information to individuals petitioning for ex parte orders of protection regarding notification of service of these orders of protection. Such notification to the petitioner is required if the petitioner has registered a telephone number with the victim notification system, established under subsection 3 of section 650.310. The petitioner shall be informed of his or her option to receive notification of service of an ex parte order of protection on the respondent by the circuit clerk and shall be provided information on how to receive notification of service of ex parte orders of protection. The local law enforcement agency or any other government agency responsible for serving ex parte orders of protection shall **enter service information into the Missouri uniform law enforcement system or future secure electronic databases that are intended for law enforcement use within twenty-four hours after the ex parte order is served on the respondent or shall** notify the circuit clerk when no more service attempts are planned by that agency. The provisions of this section shall only apply to those circuit clerks able to access a statewide victim notification system designed to provide notification of service of orders of protection.

**455.040. HEARINGS, WHEN — DURATION OF ORDERS, RENEWAL, REQUIREMENTS — COPIES OF ORDERS TO BE GIVEN, VALIDITY — DUTIES OF LAW ENFORCEMENT AGENCY — INFORMATION ENTERED IN MULES.** — 1. Not later than fifteen days after the filing of a petition pursuant to sections 455.010 to 455.085 a hearing shall be held unless the court deems, for

good cause shown, that a continuance should be granted. At the hearing, if the petitioner has proved the allegation of abuse or stalking by a preponderance of the evidence, the court shall issue a full order of protection for a period of time the court deems appropriate, except that the protective order shall be valid for at least one hundred eighty days and not more than one year. Upon motion by the petitioner, and after a hearing by the court, the full order of protection may be renewed for a period of time the court deems appropriate, except that the protective order shall be valid for at least one hundred eighty days and not more than one year from the expiration date of the originally issued full order of protection. **The court may, upon finding that it is in the best interest of the parties, include a provision that any full order of protection for one year shall automatically renew unless the respondent requests a hearing by thirty days prior to the expiration of the order.** If for good cause a hearing cannot be held on the motion to renew **or the objection to an automatic renewal of** the full order of protection prior to the expiration date of the originally issued full order of protection, an ex parte order of protection may be issued until a hearing is held on the motion. **When an automatic renewal is not authorized,** upon motion by the petitioner, and after a hearing by the court, the second full order of protection may be renewed for an additional period of time the court deems appropriate, except that the protective order shall be valid for at least one hundred eighty days and not more than one year. For purposes of this subsection, a finding by the court of a subsequent act of abuse is not required for a renewal order of protection.

2. The court shall cause a copy of the petition and notice of the date set for the hearing on such petition and any ex parte order of protection to be served upon the respondent as provided by law or by any sheriff or police officer at least three days prior to such hearing. Such notice shall be served at the earliest time, and service of such notice shall take priority over service in other actions, except those of a similar emergency nature. The court shall cause a copy of any full order of protection to be served upon or mailed by certified mail to the respondent at the respondent's last known address. Failure to serve or mail a copy of the full order of protection to the respondent shall not affect the validity or enforceability of a full order of protection.

3. A copy of any order of protection granted pursuant to sections 455.010 to 455.085 shall be issued to the petitioner and to the local law enforcement agency in the jurisdiction where the petitioner resides. The clerk shall also issue a copy of any order of protection to the local law enforcement agency responsible for maintaining the Missouri uniform law enforcement system or any other comparable law enforcement system the same day the order is granted. The law enforcement agency responsible for maintaining MULES shall [enter information contained in the order], for purposes of verification, within twenty-four hours from the time the order is granted, **enter information contained in the order including but not limited to any orders regarding child custody or visitation and all specifics as to times and dates of custody or visitation that are provided in the order.** A notice of expiration or of termination of any order of protection **or any change in child custody or visitation within that order** shall be issued to the local law enforcement agency and to the law enforcement agency responsible for maintaining MULES or any other comparable law enforcement system. The law enforcement agency responsible for maintaining the applicable law enforcement system shall enter such information in the system **within twenty-four hours of receipt of information evidencing such expiration or termination.** The information contained in an order of protection may be entered in the Missouri uniform law enforcement system or comparable law enforcement system using a direct automated data transfer from the court automated system to the law enforcement system.

4. **The court shall cause a copy of any objection filed by the respondent and notice of the date set for the hearing on such objection to an automatic renewal of a full order of protection for a period of one year to be personally served upon the petitioner by personal process server as provided by law or by a sheriff or police officer at least three days prior**

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to such hearing. Such service of process shall be served at the earliest time and shall take priority over service in other actions except those of a similar emergency nature.

**455.050. FULL OR EX PARTE ORDER OF PROTECTION, ABUSE OR STALKING, CONTENTS — RELIEF AVAILABLE.** — 1. Any full or ex parte order of protection granted pursuant to sections 455.010 to 455.085 shall be to protect the petitioner from [abuse or stalking] **domestic violence** and may include **such terms as the court reasonably deems necessary to ensure the petitioner's safety, including but not limited to:**

(1) Temporarily enjoining the respondent from abusing, threatening to abuse, molesting, stalking or disturbing the peace of the petitioner;

(2) Temporarily enjoining the respondent from entering the premises of the dwelling unit of the petitioner when the dwelling unit is:

(a) Jointly owned, leased or rented or jointly occupied by both parties; or

(b) Owned, leased, rented or occupied by petitioner individually; or

(c) Jointly owned, leased, rented or occupied by petitioner and a person other than respondent; provided, however, no spouse shall be denied relief pursuant to this section by reason of the absence of a property interest in the dwelling unit; or

(d) Jointly occupied by the petitioner and a person other than respondent; provided that the respondent has no property interest in the dwelling unit; or

(3) Temporarily enjoining the respondent from communicating with the petitioner in any manner or through any medium.

2. Mutual orders of protection are prohibited unless both parties have properly filed written petitions and proper service has been made in accordance with sections 455.010 to 455.085.

3. When the court has, after a hearing for any full order of protection, issued an order of protection, it may, in addition:

(1) Award custody of any minor child born to or adopted by the parties when the court has jurisdiction over such child and no prior order regarding custody is pending or has been made, and the best interests of the child require such order be issued;

(2) Establish a visitation schedule that is in the best interests of the child;

(3) Award child support in accordance with supreme court rule 88.01 and chapter 452;

(4) Award maintenance to petitioner when petitioner and respondent are lawfully married in accordance with chapter 452;

(5) Order respondent to make or to continue to make rent or mortgage payments on a residence occupied by the petitioner if the respondent is found to have a duty to support the petitioner or other dependent household members;

(6) Order the respondent to pay the petitioner's rent at a residence other than the one previously shared by the parties if the respondent is found to have a duty to support the petitioner and the petitioner requests alternative housing;

(7) Order that the petitioner be given temporary possession of specified personal property, such as automobiles, checkbooks, keys, and other personal effects;

(8) Prohibit the respondent from transferring, encumbering, or otherwise disposing of specified property mutually owned or leased by the parties;

(9) Order the respondent to participate in a court-approved counseling program designed to help batterers stop violent behavior or to participate in a substance abuse treatment program;

(10) Order the respondent to pay a reasonable fee for housing and other services that have been provided or that are being provided to the petitioner by a shelter for victims of domestic violence;

(11) Order the respondent to pay court costs;

(12) Order the respondent to pay the cost of medical treatment and services that have been provided or that are being provided to the petitioner as a result of injuries sustained to the petitioner by an act of domestic violence committed by the respondent.

4. A verified petition seeking orders for maintenance, support, custody, visitation, payment of rent, payment of monetary compensation, possession of personal property, prohibiting the transfer, encumbrance, or disposal of property, or payment for services of a shelter for victims of domestic violence, shall contain allegations relating to those orders and shall pray for the orders desired.

5. In making an award of custody, the court shall consider all relevant factors including the presumption that the best interests of the child will be served by placing the child in the custody and care of the nonabusive parent, unless there is evidence that both parents have engaged in abusive behavior, in which case the court shall not consider this presumption but may appoint a guardian ad litem or a court-appointed special advocate to represent the children in accordance with chapter 452 and shall consider all other factors in accordance with chapter 452.

6. The court shall grant to the noncustodial parent rights to visitation with any minor child born to or adopted by the parties, unless the court finds, after hearing, that visitation would endanger the child's physical health, impair the child's emotional development or would otherwise conflict with the best interests of the child, or that no visitation can be arranged which would sufficiently protect the custodial parent from further abuse. The court may appoint a guardian ad litem or court-appointed special advocate to represent the minor child in accordance with chapter 452 whenever the custodial parent alleges that visitation with the noncustodial parent will damage the minor child.

7. The court shall make an order requiring the noncustodial party to pay an amount reasonable and necessary for the support of any child to whom the party owes a duty of support when no prior order of support is outstanding and after all relevant factors have been considered, in accordance with Missouri supreme court rule 88.01 and chapter 452.

8. The court may grant a maintenance order to a party for a period of time, not to exceed one hundred eighty days. Any maintenance ordered by the court shall be in accordance with chapter 452.

**455.060. MODIFICATION OF ORDERS, WHEN — TERMINATION, WHEN — APPEAL — CUSTODY OF CHILDREN, MAY NOT BE CHANGED, WHEN. —** 1. After notice and hearing, the court may modify an order of protection at any time, upon subsequent motion filed by the guardian ad litem, the court-appointed special advocate or by either party together with an affidavit showing a change in circumstances sufficient to warrant the modification. All full orders of protection shall be final orders and appealable and shall be for a fixed period of time as provided in section 455.040.

2. Any order for child support, custody, temporary custody, visitation or maintenance entered under sections 455.010 to 455.085 shall terminate prior to the time fixed in the order upon the issuance of a subsequent order pursuant to chapter 452 or any other Missouri statute.

3. No order entered pursuant to sections 455.010 to 455.085 shall be res judicata to any subsequent proceeding, including, but not limited to, any action brought under chapter 452, RSMo, 1978 as amended.

4. All provisions of an order of protection shall terminate upon entry of a decree of dissolution of marriage or legal separation except as to those provisions which require the respondent to participate in a court-approved counseling program or enjoin the respondent from abusing, molesting, stalking or disturbing the peace of the petitioner and which enjoin the respondent from entering the premises of the dwelling unit of the petitioner as described in the order of protection when the petitioner continues to reside in that dwelling unit unless the respondent is awarded possession of the dwelling unit pursuant to a decree of dissolution of marriage or legal separation.

5. Any order of protection or order for child support, custody, temporary custody, visitation or maintenance entered under sections 455.010 to 455.085 shall terminate upon the [filing of] **order of the court granting** a motion to terminate the order of protection by the petitioner[;

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except that, in cases where the order grants custody of a minor child to the respondent, the order shall terminate only upon consent of both parties or upon the respondent's failure to object within ten days of receiving the petitioner's notice of the filing of the motion to dismiss. If the respondent timely objects to the dismissal,]. The court shall set the motion to dismiss for hearing and both parties shall have an opportunity to be heard. **Prior to terminating any order of protection, the court may examine the circumstances of the motion to dismiss and may inquire of the petitioner or others in order to assist the court in determining if dismissal is voluntary.**

6. The order of protection may not change the custody of children when an action for dissolution of marriage has been filed or the custody has previously been awarded by a court of competent jurisdiction.

**455.085. ARREST FOR VIOLATION OF ORDER — PENALTIES — GOOD FAITH IMMUNITY FOR LAW ENFORCEMENT OFFICIALS.** — 1. When a law enforcement officer has probable cause to believe a party has committed a violation of law amounting to abuse or assault, as defined in section 455.010, against a family or household member, the officer may arrest the offending party whether or not the violation occurred in the presence of the arresting officer. When the officer declines to make arrest pursuant to this subsection, the officer shall make a written report of the incident completely describing the offending party, giving the victim's name, time, address, reason why no arrest was made and any other pertinent information. Any law enforcement officer subsequently called to the same address within a twelve-hour period, who shall find probable cause to believe the same offender has again committed a violation as stated in this subsection against the same or any other family or household member, shall arrest the offending party for this subsequent offense. The primary report of nonarrest in the preceding twelve-hour period may be considered as evidence of the defendant's intent in the violation for which arrest occurred. The refusal of the victim to sign an official complaint against the violator shall not prevent an arrest under this subsection.

2. When a law enforcement officer has probable cause to believe that a party, against whom a protective order has been entered and who has notice of such order entered, has committed an act of abuse in violation of such order, the officer shall arrest the offending party-respondent whether or not the violation occurred in the presence of the arresting officer. Refusal of the victim to sign an official complaint against the violator shall not prevent an arrest under this subsection.

3. When an officer makes an arrest he is not required to arrest two parties involved in an assault when both parties claim to have been assaulted. The arresting officer shall attempt to identify and shall arrest the party he believes is the primary physical aggressor. The term "primary physical aggressor" is defined as the most significant, rather than the first, aggressor. The law enforcement officer shall consider any or all of the following in determining the primary physical aggressor:

- (1) The intent of the law to protect victims of domestic violence from continuing abuse;
- (2) The comparative extent of injuries inflicted or serious threats creating fear of physical injury;
- (3) The history of domestic violence between the persons involved. No law enforcement officer investigating an incident of family violence shall threaten the arrest of all parties for the purpose of discouraging requests or law enforcement intervention by any party. Where complaints are received from two or more opposing parties, the officer shall evaluate each complaint separately to determine whether he should seek a warrant for an arrest.

4. In an arrest in which a law enforcement officer acted in good faith reliance on this section, the arresting and assisting law enforcement officers and their employing entities and superiors shall be immune from liability in any civil action alleging false arrest, false imprisonment or malicious prosecution.

5. When a person against whom an order of protection has been entered fails to surrender custody of minor children to the person to whom custody was awarded in an order of protection,

the law enforcement officer shall arrest the respondent, and shall turn the minor children over to the care and custody of the party to whom such care and custody was awarded.

6. The same procedures, including those designed to protect constitutional rights, shall be applied to the respondent as those applied to any individual detained in police custody.

7. A violation of the terms and conditions, with regard to abuse, stalking, child custody, communication initiated by the respondent or entrance upon the premises of the petitioner's dwelling unit **or place of employment or school, or being within a certain distance of the petitioner or a child of the petitioner**, of an ex parte order of protection of which the respondent has notice, shall be a class A misdemeanor unless the respondent has previously pleaded guilty to or has been found guilty **in any division of the circuit court** of violating an ex parte order of protection or a full order of protection within five years of the date of the subsequent violation, in which case the subsequent violation shall be a class D felony. Evidence of prior pleas of guilty or findings of guilt shall be heard by the court out of the presence of the jury prior to submission of the case to the jury. If the court finds the existence of such prior pleas of guilty or finding of guilt beyond a reasonable doubt, the court shall decide the extent or duration of sentence or other disposition and shall not instruct the jury as to the range of punishment or allow the jury to assess and declare the punishment as a part of its verdict.

8. A violation of the terms and conditions, with regard to abuse, stalking, child custody, communication initiated by the respondent or entrance upon the premises of the petitioner's dwelling unit **or place of employment or school, or being within a certain distance of the petitioner or a child of the petitioner**, of a full order of protection shall be a class A misdemeanor, unless the respondent has previously pleaded guilty to or has been found guilty **in any division of the circuit court** of violating an ex parte order of protection or a full order of protection within five years of the date of the subsequent violation, in which case the subsequent violation shall be a class D felony. Evidence of prior pleas of guilty or findings of guilt shall be heard by the court out of the presence of the jury prior to submission of the case to the jury. If the court finds the existence of such prior plea of guilty or finding of guilt beyond a reasonable doubt, the court shall decide the extent or duration of the sentence or other disposition and shall not instruct the jury as to the range of punishment or allow the jury to assess and declare the punishment as a part of its verdict. For the purposes of this subsection, in addition to the notice provided by actual service of the order, a party is deemed to have notice of an order of protection if the law enforcement officer responding to a call of a reported incident of abuse or violation of an order of protection presented a copy of the order of protection to the respondent.

9. Good faith attempts to effect a reconciliation of a marriage shall not be deemed tampering with a witness or victim tampering under section 575.270.

10. Nothing in this section shall be interpreted as creating a private cause of action for damages to enforce the provisions set forth herein.

**455.200. DEFINITIONS.** — As used in sections 455.200 to 455.230, unless the context clearly requires otherwise, the following words and phrases mean:

(1) "Designated authority", the board, commission, agency, or other body designated under the provisions of section [455.210] **488.445** as the authority to administer the allocation and distribution of funds to shelters;

(2) ["Domestic violence", attempting to cause or causing bodily injury to a family or household member, or placing a family or household member by threat of force in fear of imminent physical harm;

(3) "Family or household member", a spouse, a former spouse, person living with another person whether or not as spouses, parent, or other adult person related by consanguinity or affinity, who is residing or has resided with the person committing the domestic violence and dependents of such persons;

(4)] "Shelter for victims of domestic violence" or "shelter", a facility established for the purpose of providing temporary residential service or facilities to family or household members who are victims of domestic violence.

**455.505. RELIEF MAY BE SOUGHT FOR CHILD FOR DOMESTIC VIOLENCE OR CHILD BEING STALKED — ORDER OF PROTECTION EFFECTIVE, WHERE. —** 1. An order of protection for a child who has been subject to [abuse] **domestic violence** by a present or former adult household member or person stalking the child may be sought under sections 455.500 to 455.538 by the filing of a verified petition alleging such [abuse] **domestic violence** by the respondent.

2. A child's right to relief under sections 455.500 to 455.538 shall not be affected by his leaving the residence or household to avoid [abuse] **domestic violence**.

3. Any protection order issued pursuant to sections 455.500 to 455.538 shall be effective throughout the state in all cities and counties.

**455.513. EX PARTE ORDERS, ISSUED WHEN, EFFECTIVE WHEN — FOR GOOD CAUSE SHOWN, DEFINED — INVESTIGATION BY DIVISION OF FAMILY SERVICES, WHEN — REPORT DUE WHEN, AVAILABLE TO WHOM — TRANSFER TO JUVENILE COURT, WHEN. —** 1. Upon the filing of a verified petition under sections 455.500 to 455.538, for good cause shown in the petition, and upon finding that no prior order regarding custody is pending or has been made **or that the respondent is less than seventeen years of age**, the court may immediately issue an ex parte order of protection. An immediate and present danger of abuse to a child shall constitute good cause for purposes of this section. An ex parte order of protection entered by the court shall be in effect until the time of the hearing.

2. Upon the entry of the ex parte order of protection, the court shall enter its order appointing a guardian ad litem or court-appointed special advocate to represent the child victim.

3. If the allegations in the petition would give rise to jurisdiction under section 211.031, the court may direct the **children's** division [of family services] to conduct an investigation and to provide appropriate services. The division shall submit a written investigative report to the court and to the juvenile officer within thirty days of being ordered to do so. The report shall be made available to the parties and the guardian ad litem or court-appointed special advocate.

**4. If an ex parte order is entered and the allegations in the petition would give rise to jurisdiction under section 211.031 because the respondent is less than seventeen years of age, the court shall transfer the case to juvenile court for a hearing on a full order of protection. Service of process shall be made pursuant to section 455.035.**

**455.516. HEARINGS, WHEN, PROCEDURE, STANDARD OF PROOF — DURATION OF ORDERS — VIDEOTAPED TESTIMONY PERMITTED — RENEWAL OF ORDERS, WHEN — SERVICE OF RESPONDENT, FAILURE TO SERVE NOT TO AFFECT VALIDITY OF ORDER — NOTICE TO LAW ENFORCEMENT AGENCIES — SERVICE OF PROCESS. —** 1. Not later than fifteen days after the filing of a petition under sections 455.500 to 455.538, a hearing shall be held unless the court deems, for good cause shown, that a continuance should be granted. At the hearing, which may be an open or a closed hearing at the discretion of the court, whichever is in the best interest of the child, if the petitioner has proved the allegation of [abuse of] **domestic violence against** a child by a preponderance of the evidence, the court may issue a full order of protection for at least one hundred eighty days and not more than one year. The court may allow as evidence any in camera videotape made of the testimony of the child pursuant to section 491.699. The provisions of section 491.075 relating to admissibility of statements of a child under the age of [twelve] **fourteen** shall apply to any hearing under the provisions of sections 455.500 to 455.538. Upon motion by either party, the guardian ad litem or the court-appointed special advocate, and after a hearing by the court, the full order of protection may be renewed for a period

of time the court deems appropriate, except that the protective order shall be valid for at least one hundred eighty days and not more than one year from the expiration date of the originally issued full order of protection. **The court may, upon finding that it is in the best interest of the child, include a provision that any full order of protection for one year shall automatically renew unless the respondent requests a hearing by thirty days prior to the expiration of the order.** If for good cause a hearing cannot be held on the motion to renew **or to terminate the automatic renewal of** the full order of protection prior to the expiration date of the originally issued full order of protection, an ex parte order of protection may be issued until a hearing is held on the motion. **When an automatic renewal is not authorized,** upon motion by either party, the guardian ad litem or the court appointed special advocate, and after a hearing by the court, the second full order of protection may be renewed for an additional period of time the court deems appropriate, except that the protective order shall be valid for at least one hundred eighty days and not more than one year from the expiration date of the second full order of protection. If for good cause a hearing cannot be held on the motion to renew the second full order of protection prior to the expiration date of the second order, an ex parte order of protection may be issued until a hearing is held on the motion. For purposes of this subsection, a finding by the court of a subsequent act of abuse is not required for a renewal order of protection.

2. The court shall cause a copy of the petition and notice of the date set for the hearing on such petition and any ex parte order of protection to be personally served upon the respondent by personal process server as provided by law or by any sheriff or police officer at least three days prior to such hearing. Such shall be served at the earliest time, and service of such shall take priority over service in other actions, except those of a similar emergency nature. The court shall cause a copy of any full order of protection to be served upon or mailed by certified mail to the respondent at the respondent's last known address. Failure to serve or mail a copy of the full order of protection to the respondent shall not affect the validity or enforceability of a full order of protection.

3. A copy of any order of protection granted under sections 455.500 to 455.538 shall be issued to the petitioner and to the local law enforcement agency in the jurisdiction where the petitioner resides. The clerk shall also issue a copy of any order of protection to the local law enforcement agency responsible for maintaining the Missouri uniform law enforcement system (MULES) or any other comparable law enforcement system the same day the order is granted. The law enforcement agency responsible for maintaining MULES shall enter information contained in the order for purposes of verification within twenty-four hours from the time the order is granted. A notice of expiration or of termination of any order of protection shall be issued to such local law enforcement agency and to the law enforcement agency responsible for maintaining MULES or any other comparable law enforcement system. The law enforcement agency responsible for maintaining the applicable law enforcement system shall enter such information in the system. The information contained in an order of protection may be entered in the Missouri uniform law enforcement system or comparable law enforcement system using a direct automated data transfer from the court automated system to the law enforcement system.

4. A copy of the petition and notice of the date set for the hearing on such petition and any order of protection granted pursuant to sections 455.500 to 455.538 shall be issued to the juvenile office in the jurisdiction where the petitioner resides. A notice of expiration or of termination of any order of protection shall be issued to such juvenile office.

**5. The court shall cause a copy of any objection filed by the respondent and notice of the date set for the hearing on such objection to an automatic renewal of a full order of protection for a period of one year to be personally served upon the petitioner by a personal process server as provided by law or by a sheriff or police officer at least three days prior to such hearing. Such service of process shall be served at the earliest time and shall take priority over service in other actions except those of a similar emergency nature.**

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**455.520. TEMPORARY RELIEF AVAILABLE — EX PARTE ORDERS.** — 1. Any ex parte order of protection granted under sections 455.500 to 455.538 shall be to protect the victim from [abuse] **domestic violence** and may include **such terms as the court reasonably deems necessary to ensure the petitioner's safety, including but not limited to:**

(1) Restraining the respondent from abusing, threatening to abuse, molesting or disturbing the peace of the victim;

(2) Restraining the respondent from entering the family home of the victim except as specifically authorized by the court;

(3) Restraining the respondent from [having any contact] **communicating** with the victim **in any manner or through any medium**, except as specifically authorized by the court;

(4) A temporary order of custody of minor children.

2. No ex parte order of protection excluding the respondent from the family home shall be issued unless the court finds that:

(1) The order is in the best interests of the child or children remaining in the home;

(2) The verified allegations of [abuse] **domestic violence** present a substantial risk to the child or children unless the respondent is excluded; **and**

(3) A remaining adult family or household member is able to care adequately for the child or children in the absence of the excluded party[; and

(4) A commitment has been obtained from the local division of family services office to provide appropriate social services to the family or household members during the period of time which an order of protection is in effect].

**455.523. FULL ORDER OF PROTECTION — RELIEF AVAILABLE.** — 1. Any full order of protection granted under sections 455.500 to 455.538 shall be to protect the victim from [abuse] **domestic violence** and may include **such terms as the court reasonably deems necessary to ensure the petitioner's safety, including but not limited to:**

(1) Temporarily enjoining the respondent from abusing, threatening to abuse, molesting or disturbing the peace of the victim;

(2) Temporarily enjoining the respondent from entering the family home of the victim, except as specifically authorized by the court;

(3) Temporarily enjoining the respondent from [having any contact] **communicating** with the victim **in any manner or through any medium**, except as specifically authorized by the court.

2. When the court has, after hearing for any full order of protection, issued an order of protection, it may, in addition:

(1) Award custody of any minor child born to or adopted by the parties when the court has jurisdiction over such child and no prior order regarding custody is pending or has been made, and the best interests of the child require such order be issued;

(2) Award visitation;

(3) Award child support in accordance with supreme court rule 88.01 and chapter 452;

(4) Award maintenance to petitioner when petitioner and respondent are lawfully married in accordance with chapter 452;

(5) Order respondent to make or to continue to make rent or mortgage payments on a residence occupied by the victim if the respondent is found to have a duty to support the victim or other dependent household members;

(6) Order the respondent to participate in a court-approved counseling program designed to help child abusers stop violent behavior or to treat substance abuse;

(7) Order the respondent to pay, to the extent that he or she is able, the costs of his or her treatment, together with the treatment costs incurred by the victim;

(8) Order the respondent to pay a reasonable fee for housing and other services that have been provided or that are being provided to the victim by a shelter for victims of domestic violence.

**455.538. LAW ENFORCEMENT AGENCIES RESPONSE TO VIOLATION OF ORDER — ARREST FOR VIOLATION, PENALTIES — CUSTODY TO BE RETURNED TO RIGHTFUL PARTY, WHEN.** — 1. When a law enforcement officer has probable cause to believe that a party, against whom a protective order for a child has been entered, has committed an act of abuse in violation of that order, he shall have the authority to arrest the respondent whether or not the violation occurred in the presence of the arresting officer.

2. When a person, against whom an order of protection for a child has been entered, fails to surrender custody of minor children to the person to whom custody was awarded in an order of protection, the law enforcement officer shall arrest the respondent, and shall turn the minor children over to the care and custody of the party to whom such care and custody was awarded.

3. The same procedures, including those designed to protect constitutional rights, shall be applied to the respondent as those applied to any individual detained in police custody.

4. (1) Violation of the terms and conditions of an ex parte **or full** order of protection with regard to abuse, child custody, **communication initiated by the respondent**, or entrance upon the premises of the victim's dwelling unit **or place of employment or school, or being within a certain distance of the petitioner or a child of the petitioner**, of which the respondent has notice, shall be a class A misdemeanor[. Violation of the terms and conditions of a full order of protection for a child regarding abuse, child custody, or entrance upon the premises of the petitioner's dwelling unit, shall be a class A misdemeanor], **unless the respondent has previously pleaded guilty to or has been found guilty in any division of the circuit court of violating an ex parte order of protection or a full order of protection within five years of the date of the subsequent violation, in which case the subsequent violation shall be a class D felony. Evidence of a prior plea of guilty or finding of guilt shall be heard by the court out of the presence of the jury prior to submission of the case to the jury. If the court finds the existence of a prior plea of guilty or finding of guilt beyond a reasonable doubt, the court shall decide the extent or duration of sentence or other disposition and shall not instruct the jury as to the range of punishment or allow the jury to assess and declare the punishment as a part of its verdict.**

(2) For purposes of this subsection, in addition to the notice provided by actual service of the order, a party is deemed to have notice of an order of protection for a child if the law enforcement officer responding to a call of a reported incident of abuse or violation of an order of protection for a child presents a copy of the order of protection to the respondent.

5. The fact that an act by a respondent is a violation of a valid order of protection for a child shall not preclude prosecution of the respondent for other crimes arising out of the incident in which the protection order is alleged to have been violated.

**455.543. HOMICIDES OR SUICIDES, DETERMINATION OF DOMESTIC VIOLENCE, FACTORS TO BE CONSIDERED — REPORTS MADE TO HIGHWAY PATROL, FORMS, DUE WHEN.** — 1. In any incident investigated by a law enforcement agency involving a homicide or suicide, the law enforcement agency shall make a determination as to whether the homicide or suicide is related to domestic violence[, as defined in section 455.200].

2. In making such determination, the local law enforcement agency may consider a number of factors including, but not limited to, the following:

(1) If the relationship between the perpetrator and the victim is or was that of a family or household member[, as defined in section 455.010];

(2) Whether the victim or perpetrator had previously filed for an order of protection;

(3) Whether any of the subjects involved in the incident had previously been investigated for incidents of domestic violence; and

(4) Any other evidence regarding the homicide or suicide that assists the agency in making its determination.

3. After making a determination as to whether the homicide or suicide is related to domestic violence, the law enforcement agency shall forward the information required within fifteen days to the Missouri state highway patrol on a form or format approved by the patrol. The required information shall include the gender and age of the victim, the type of incident investigated, the disposition of the incident and the relationship of the victim to the perpetrator. The state highway patrol shall develop a form for this purpose which shall be distributed by the department of public safety to all law enforcement agencies by October 1, 2000. Completed forms shall be forwarded to the highway patrol without undue delay as required by section 43.500; except that all such reports shall be forwarded no later than seven days after an incident is determined or identified as a homicide or suicide involving domestic violence.

**455.549. COURT-APPOINTED BATTERER INTERVENTION, CREDENTIALING PROCESS, RULEMAKING AUTHORITY. — 1. The division of probation and parole within the department of corrections shall promulgate rules to establish standards and to adopt a credentialing process for any court-appointed batterer intervention program.**

**2. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2011, shall be invalid and void.**

**455.800. JUVENILE COURT RECORDS, CONFIDENTIALITY, WHEN. — In all proceedings pursuant to subsection 3 of section 455.035 or subsection 4 of section 455.513, the records of the juvenile court shall be kept confidential and may be open to inspection without a court order only to:**

- (1) The juvenile officer;**
- (2) The officials at the child's school, law enforcement officials, prosecuting attorneys, or any person or agency having or proposed to provide care, custody, or control or to provide treatment of the child; and**
- (3) A parent or guardian of or court appointed guardian ad litem for the child.**

**527.290. NOTICE OF CHANGE TO BE GIVEN, WHEN AND HOW — NOT REQUIRED, WHEN. — 1. Public notice of such a change of name shall be given at least three times in a newspaper published in the county where such person is residing, within twenty days after the order of court is made, and if no newspaper is published in his or any adjacent county, then such notice shall be given in a newspaper published in the city of St. Louis, or at the seat of government.**

**2. Public notice of such name change through publication as required in subsection 1 of this section shall not be required if the petitioner is:**

- (1) The victim of a crime, the underlying factual basis of which is found by the court on the record to include an act of domestic violence, as defined in section [455.200] 455.010;**
- (2) The victim of child abuse, as defined in section 210.110; or**
- (3) The victim of abuse by a family or household member, as defined in section 455.010.**

**565.074. DOMESTIC ASSAULT, THIRD DEGREE — PENALTY.** — 1. A person commits the crime of domestic assault in the third degree if the act involves a family or household member or an adult who is or has been in a continuing social relationship of a romantic or intimate nature with the actor, as defined in section 455.010 and:

- (1) The person attempts to cause or recklessly causes physical injury to such family or household member; or
- (2) With criminal negligence the person causes physical injury to such family or household member by means of a deadly weapon or dangerous instrument; or
- (3) The person purposely places such family or household member in apprehension of immediate physical injury by any means; or
- (4) The person recklessly engages in conduct which creates a grave risk of death or serious physical injury to such family or household member; or
- (5) The person knowingly causes physical contact with such family or household member knowing the other person will regard the contact as offensive; or
- (6) The person knowingly attempts to cause or causes the isolation of such family or household member by unreasonably and substantially restricting or limiting such family or household member's access to other persons, telecommunication devices or transportation for the purpose of isolation.

2. Except as provided in subsection 3 of this section, domestic assault in the third degree is a class A misdemeanor.

3. A person who has pleaded guilty to or been found guilty of the crime of domestic assault in the third degree more than two times against any family or household member as defined in section 455.010, **or of any offense committed in violation of any county or municipal ordinance in any state, any state law, any federal law, or any military law which, if committed in this state, would be a violation of this section,** is guilty of a class D felony for the third or any subsequent commission of the crime of domestic assault. The offenses described in this subsection may be against the same family or household member or against different family or household members.

**589.683. INAPPLICABILITY OF MISSOURI SUNSET ACT.** — [Pursuant to section 23.253 of the Missouri sunset act:

- (1) Any new program authorized under sections 589.660 to 589.681 shall automatically sunset six years after August 28, 2007, unless reauthorized by an act of the general assembly; and
- (2) If such program is reauthorized, the program authorized under sections 589.660 to 589.681 shall automatically sunset twelve years after the effective date of the reauthorization of sections 589.660 to 589.681; and
- (3) Sections 589.660 to 589.681 shall terminate on September first of the calendar year immediately following the calendar year in which a program authorized under sections 589.660 to 589.681 is sunset.] **Section 23.253 of the Missouri sunset act shall not apply to any program established pursuant to sections 589.660 to 589.681.**

**595.100. FUNDING, ADMINISTRATION.** — 1. There is hereby established in the state treasury the "Services to Victims Fund" which shall consist of money collected pursuant to section 595.045. The fund shall be administered by the department of public safety. Upon appropriation, money in the fund shall be used solely for the administration of sections 595.050, 595.055 and 595.105, **except that public or private agencies, as defined by section 595.050, shall use no more than ten percent of any funds received for administrative purposes.**

2. Notwithstanding the provisions of section 33.080, any balance remaining in the fund at the end of an appropriation period shall not be transferred to general revenue, but shall remain in the fund.



**595.220. FORENSIC EXAMINATIONS, DEPARTMENT OF PUBLIC SAFETY TO PAY MEDICAL PROVIDERS, WHEN — MINOR MAY CONSENT TO EXAMINATION, WHEN — ATTORNEY GENERAL TO DEVELOP FORMS — COLLECTION KITS — DEFINITIONS — RULEMAKING AUTHORITY.** — 1. The department of public safety shall make payments to appropriate medical providers, out of appropriations made for that purpose, to cover the reasonable charges of the forensic examination of persons who may be a victim of a sexual offense if:

(1) The victim or the victim's guardian consents in writing to the examination; and  
(2) The report of the examination is made on a form approved by the attorney general with the advice of the department of public safety. **The department shall establish maximum reimbursement rates for charges submitted under this section, which shall reflect the reasonable cost of providing the forensic exam.**

2. A minor may consent to examination under this section. Such consent is not subject to disaffirmance because of minority, and consent of parent or guardian of the minor is not required for such examination. The appropriate medical provider making the examination shall give written notice to the parent or guardian of a minor that such an examination has taken place.

3. The attorney general, with the advice of the department of public safety, shall develop the forms and procedures for gathering evidence during the forensic examination under the provisions of this section. The department of health and senior services shall develop a checklist, protocols, and procedures for appropriate medical providers to refer to while providing medical treatment to victims of a sexual offense, including those specific to victims who are minors.

4. Evidentiary collection kits shall be developed and made available, subject to appropriation, to appropriate medical providers by the highway patrol or its designees and eligible crime laboratories. Such kits shall be distributed with the forms and procedures for gathering evidence during forensic examinations of victims of a sexual offense to appropriate medical providers upon request of the provider, in the amount requested, and at no charge to the medical provider. All appropriate medical providers shall, with the written consent of the victim, perform a forensic examination using the evidentiary collection kit, or other collection procedures developed for victims who are minors, and forms and procedures for gathering evidence following the checklist for any person presenting as a victim of a sexual offense.

5. In reviewing claims submitted under this section, the department shall first determine if the claim was submitted within ninety days of the examination. If the claim is submitted within ninety days, the department shall, at a minimum, use the following criteria in reviewing the claim: examination charges submitted shall be itemized and fall within the definition of forensic examination as defined in subdivision (3) of subsection 7 of this section.

6. All appropriate medical provider charges for eligible forensic examinations shall be billed to and paid by the department of public safety. No appropriate medical provider conducting forensic examinations and providing medical treatment to victims of sexual offenses shall charge the victim for the forensic examination. For appropriate medical provider charges related to the medical treatment of victims of sexual offenses, if the victim is an eligible claimant under the crime victims' compensation fund, the victim shall seek compensation under sections 595.010 to 595.075.

7. For purposes of this section, the following terms mean:

(1) "Appropriate medical provider", any licensed nurse, physician, or physician assistant, and any institution employing licensed nurses, physicians, or physician assistants, provided that such licensed professionals are the only persons at such institution to perform tasks under the provisions of this section;

(2) "Evidentiary collection kit", a kit used during a forensic examination that includes materials necessary for appropriate medical providers to gather evidence in accordance with the forms and procedures developed by the attorney general for forensic examinations;

(3) "Forensic examination", an examination performed by an appropriate medical provider on a victim of an alleged sexual offense to gather evidence for the evidentiary collection kit or using other collection procedures developed for victims who are minors;

(4) "Medical treatment", the treatment of all injuries and health concerns resulting directly from a patient's sexual assault or victimization.

8. The department shall have authority to promulgate rules and regulations necessary to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

**[455.501. DEFINITIONS.** — As used in sections 455.500 to 455.538, the following terms mean:

(1) "Abuse", any physical injury, sexual abuse, or emotional abuse inflicted on a child other than by accidental means by an adult household member, or stalking of a child. Discipline including spanking, administered in a reasonable manner shall not be construed to be abuse;

(2) "Adult household member", any person eighteen years of age or older or an emancipated child who resides with the child in the same dwelling unit;

(3) "Child", any person under eighteen years of age;

(4) "Court", the circuit or associate circuit judge or a family court commissioner;

(5) "Ex parte order of protection", an order of protection issued by the court before the respondent has received notice of the petition or an opportunity to be heard on it;

(6) "Full order of protection", an order of protection issued after a hearing on the record where the respondent has received notice of the proceedings and has had an opportunity to be heard;

(7) "Order of protection", either an ex parte order of protection or a full order of protection;

(8) "Petitioner", a person authorized to file a verified petition under the provisions of sections 455.503 and 455.505;

(9) "Respondent", the adult household member, emancipated child or person stalking the child against whom a verified petition has been filed;

(10) "Stalking", when an adult purposely and repeatedly engages in an unwanted course of conduct with regard to a child that causes another adult to believe that a child would suffer alarm by the conduct. As used in this subdivision:

(a) "Course of conduct" means a pattern of conduct composed of repeated acts over a period of time, however short, that serves no legitimate purpose. Such conduct may include, but is not limited to, following the other person or unwanted communication or contact;

(b) "Repeated" means two or more incidents evidencing a continuity of purpose; and

(c) "Alarm" means to cause fear of danger of physical harm;

(11) "Victim", a child who is alleged to have been abused by an adult household member.]

**[455.540. DEFINITIONS.** — As used in sections 455.540 to 455.547, the following terms shall mean:

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- (1) "Adult", any person eighteen years of age or older;
- (2) "Domestic violence", as provided in section 455.200.]

Approved July 12, 2011

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SB 325 [HCS SB 325]

**EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

**Requires boards, commissions, committees, councils, or offices to notify a licensee's employer of a change in the licensee's license status.**

AN ACT to repeal sections 333.041, 333.042, 333.051, 333.061, 333.091, 333.151, 333.171, 335.036, 335.200, 335.203, 335.206, 335.209, 338.010, 338.140, 338.150, 338.210, 338.220, 338.240, 338.315, 338.330, 339.190, 429.015, 436.405, 436.412, 436.445, 436.450, 436.455, 436.456, and 516.098, RSMo, and to enact in lieu thereof thirty new sections relating to professional registration, with penalty provisions and an emergency clause for a certain section.

SECTION

- A. Enacting clause.
- 324.014. License status, change in to be reported to current employer by licensing body.
- 332.425. Instructor in accredited school, issuance of teaching license, when.
- 333.041. Qualifications of applicants — examinations — licenses — board may waive requirements in certain cases.
- 333.042. Application and examination fees for funeral directors, apprenticeship requirements — examination content for applicants — apprenticeship duties — appearance before board — limited license only for cremation — exemptions from apprenticeship.
- 333.051. Recognition of persons licensed in other states — fees.
- 333.061. No funeral establishment to be operated by unlicensed person — license requirements, application procedure — license may be suspended or revoked or not renewed.
- 333.091. License to be displayed.
- 333.151. Board members — qualifications — terms — vacancies.
- 333.171. Board meetings — notice — seal.
- 335.036. Duties of board — fees set, how — fund, source, use, funds transferred from, when — rulemaking.
- 335.099. Licensed practical nurse, additional authorized acts.
- 335.200. Nurse education incentive grants — definitions.
- 335.203. Nursing education incentive program established — grants authorized, limit, eligibility — administration — rulemaking authority.
- 338.010. Practice of pharmacy defined — auxiliary personnel — written protocol required, when — nonprescription drugs — rulemaking authority — therapeutic plan requirements — veterinarian defined.
- 338.140. Board of pharmacy, powers, duties — advisory committee, appointment, duties — letters of reprimand, censure or warning.
- 338.150. Inspections by authorized representatives of board, where.
- 338.210. Pharmacy defined — practice of pharmacy to be conducted at pharmacy location — rulemaking authority.
- 338.220. Operation of pharmacy without permit or license unlawful — application for permit, classifications, fee — duration of permit.
- 338.240. Evidence required for issuance of permit — veterinary permit pharmacy, designation of supervising registered pharmacist, when.
- 338.315. Receipt of drugs from unlicensed distributor or pharmacy, unlawful — penalty.
- 338.330. Definitions.
- 339.190. Real estate licensee, immunity from liability, when.
- 429.015. Lien authorized for architectural, professional engineering, land survey, or landscape architecture — extent of lien — priority — defenses.
- 436.405. Definitions.
- 436.412. Violations, disciplinary actions authorized — governing law for contracts.
- 436.445. Trustee not to make decisions, when.
- 436.450. Insurance-funded preneed contract requirements.
- 436.455. Joint account-funded preneed contract requirements.

- 436.456. Cancellation of contract, when, procedure.
- 516.098. Surveys of land error or omissions — action must be brought when.
- 335.206. Nurse training incentive fund — grants — amounts.
- 335.209. Administrative rules — procedure.
  - B. Emergency clause.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 333.041, 333.042, 333.051, 333.061, 333.091, 333.151, 333.171, 335.036, 335.200, 335.203, 335.206, 335.209, 338.010, 338.140, 338.150, 338.210, 338.220, 338.240, 338.315, 338.330, 339.190, 429.015, 436.405, 436.412, 436.445, 436.450, 436.455, 436.456, and 516.098, RSMo, are repealed and thirty new sections enacted in lieu thereof, to be known as sections 324.014, 332.425, 333.041, 333.042, 333.051, 333.061, 333.091, 333.151, 333.171, 335.036, 335.099, 335.200, 335.203, 338.010, 338.140, 338.150, 338.210, 338.220, 338.240, 338.315, 338.330, 339.190, 429.015, 436.405, 436.412, 436.445, 436.450, 436.455, 436.456, and 516.098, to read as follows:

**324.014. LICENSE STATUS, CHANGE IN TO BE REPORTED TO CURRENT EMPLOYER BY LICENSING BODY.** — Any board, commission, committee, council, or office within the division of professional registration shall notify any known current employer of a change in a licensee's license and discipline status. An employer may provide a list of current licensed employees and make a request in writing to the board, commission, committee, council, or office within the division of professional registration responsible for the licensee's license, to be notified upon a change in the licensing status of any such licensed employee. Nothing in this section shall be construed as requiring the board, commission, committee, council, or office within the division of professional registration to determine the current employer of any person whose license is sanctioned.

**332.425. INSTRUCTOR IN ACCREDITED SCHOOL, ISSUANCE OF TEACHING LICENSE, WHEN.** — 1. The dental board may issue a limited teaching license to a dentist employed as an instructor in an accredited dental school in Missouri. The holder of a limited teaching license shall be authorized to practice dentistry, in accordance with section 332.071, only within the confines of the accredited dental school programs. A limited teaching license shall be renewed every two years and shall be subject to the same renewal requirements contained in section 332.181. A limited teaching license shall be subject to discipline in accordance with section 332.321 and shall be automatically cancelled and nullified if the holder ceases to be employed as an instructor in the accredited dental school.

2. To qualify for a limited teaching license, an applicant shall:

- (1) Be a graduate of and hold a degree from a dental school. An applicant shall not be required to be a graduate of an accredited dental school as defined in section 332.011;
  - (2) Have passed the National Board Examination in accordance with criteria established by the sponsoring body;
  - (3) Have passed a state or regional entry level competency examination approved by the Missouri dental board for licensure within the previous five years;
  - (4) Have passed a written jurisprudence examination given by the board on the Missouri dental laws and rules with a grade of at least eighty percent;
  - (5) Hold current certification in the American Heart Association's Basic Life Support (BLS), Advanced Cardiac Life Support (ACLS), or certification equivalent to BLS or ACLS;
  - (6) Submit to the board a completed application for licensure on forms provided by the board and the applicable license fee; and
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(7) **Submit to the board evidence of successful passage of an examination approved by the board of spoken and written proficiency in the English language.**

**333.041. QUALIFICATIONS OF APPLICANTS — EXAMINATIONS — LICENSES — BOARD MAY WAIVE REQUIREMENTS IN CERTAIN CASES.** — 1. Each applicant for a license to practice funeral directing shall furnish evidence to establish to the satisfaction of the board that he or she is:

(1) At least eighteen years of age, and possesses a high school diploma, **a general equivalency diploma**, or equivalent thereof, **as determined, at its discretion, by the board; and**

(2) [Either a citizen or a bona fide resident of the state of Missouri or entitled to a license pursuant to section 333.051, or a resident in a county contiguous and adjacent to the state of Missouri who is employed by a funeral establishment located within the state of Missouri, to practice funeral directing upon the grant of a license to do so; and

(3)] A person of good moral character.

2. Every person desiring to enter the profession of embalming dead human bodies within the state of Missouri and who is enrolled in [an] **a program** accredited [institution of mortuary science education] **by the American Board of Funeral Service Education, any successor organization, or other accrediting entity as approved by the board**, shall register with the board as a practicum student upon the form provided by the board. After such registration, a student may assist, under the direct supervision of Missouri licensed embalmers and funeral directors, in Missouri licensed funeral establishments, while serving his or her practicum [for the accredited institution of mortuary science education]. The form for registration as a practicum student shall be accompanied by a fee in an amount established by the board.

3. Each applicant for a license to practice embalming shall furnish evidence to establish to the satisfaction of the board that he or she:

(1) Is at least eighteen years of age, and possesses a high school diploma, **a general equivalency diploma**, or equivalent thereof, **as determined, at its discretion, by the board;**

(2) [Is either a citizen or bona fide resident of the state of Missouri or entitled to a license pursuant to section 333.051, or a resident in a county contiguous and adjacent to the state of Missouri who is employed by a funeral establishment located within the state of Missouri, to practice embalming upon the grant of a license to do so;

(3)] Is a person of good moral character;

[(4)] (3) Has [graduated from an institute of mortuary science education] **completed a funeral service education program** accredited by the American Board of Funeral Service Education, [or] any successor organization [recognized by the United States Department of Education, for funeral service education], **or other accrediting entity as approved by the board**. If an applicant does not [appear for the final examination before the board] **complete all requirements for licensure** within five years from the date of his or her [graduation from] **completion of** an accredited [institution of mortuary science education] **program**, his or her registration as [a student] **an apprentice** embalmer shall be automatically canceled. **The applicant shall be required to file a new application and pay applicable fees. No previous apprenticeship shall be considered for the new application;**

[(5)] (4) Upon due examination administered by the board, is possessed of a knowledge of the subjects of embalming, anatomy, pathology, bacteriology, mortuary administration, chemistry, restorative art, together with statutes, rules and regulations governing the care, custody, shelter and disposition of dead human bodies and the transportation thereof or has passed the national board examination of the Conference of Funeral Service Examining Boards. If any applicant fails to pass the state examination, he or she may retake the examination at the next regular examination meeting. The applicant shall notify the board office of his or her desire to retake the examination at least thirty days prior to the date of the examination. Each time the examination is retaken, the applicant shall pay a new examination fee in an amount established by the board;

[(6)] (5) Has been employed full time in funeral service in a licensed funeral establishment and has personally embalmed at least twenty-five dead human bodies under the personal supervision of an embalmer who holds a current and valid Missouri embalmer's license or an embalmer who holds a current and valid embalmer's license in a state with which the Missouri board has entered into a reciprocity agreement during an apprenticeship of not less than twelve consecutive months. "Personal supervision" means that the licensed embalmer shall be physically present during the entire embalming process in the first six months of the apprenticeship period and physically present at the beginning of the embalming process and available for consultation and personal inspection within a period of not more than one hour in the remaining six months of the apprenticeship period. All transcripts and other records filed with the board shall become a part of the board files.

4. If the applicant does not [appear for oral examination] **complete the application process** within the five years after his or her [graduation from an accredited institution of mortuary science education] **completion of an approved program**, then he or she must file a new application and no fees paid previously shall apply toward the license fee.

5. Examinations required by this section and section 333.042 shall be held at least twice a year at times and places fixed by the board. The board shall by rule and regulation prescribe the standard for successful completion of the examinations.

6. Upon establishment of his or her qualifications as specified by this section or section 333.042, the board shall issue to the applicant a license to practice funeral directing or embalming, as the case may require, and shall register the applicant as a duly licensed funeral director or a duly licensed embalmer. Any person having the qualifications required by this section and section 333.042 may be granted both a license to practice funeral directing and to practice embalming.

7. The board shall, upon request, waive any requirement of this chapter and issue a temporary funeral director's license, valid for six months, to the surviving spouse or next of kin or the personal representative of a licensed funeral director, or to the spouse, next of kin, employee or conservator of a licensed funeral director disabled because of sickness, mental incapacity or injury.

**333.042. APPLICATION AND EXAMINATION FEES FOR FUNERAL DIRECTORS, APPRENTICESHIP REQUIREMENTS — EXAMINATION CONTENT FOR APPLICANTS — APPRENTICESHIP DUTIES — APPEARANCE BEFORE BOARD — LIMITED LICENSE ONLY FOR CREMATION — EXEMPTIONS FROM APPRENTICESHIP.** — 1. Every person desiring to enter the profession of funeral directing in this state shall make application with the state board of embalmers and funeral directors and pay the current application and examination fees. **Except as otherwise provided in section 41.950**, applicants not entitled to a license pursuant to section 333.051 shall serve an apprenticeship for at least twelve **consecutive** months in a funeral establishment licensed for the care and preparation for burial and transportation of the human dead in this state or in another state which has established standards for admission to practice funeral directing equal to, or more stringent than, the requirements for admission to practice funeral directing in this state. The applicant shall devote at least fifteen hours per week to his or her duties as an apprentice under the supervision of a Missouri licensed funeral director. Such applicant shall submit proof to the board, on forms provided by the board, that the applicant has arranged and conducted ten funeral services during the applicant's apprenticeship under the supervision of a Missouri licensed funeral director. Upon completion of the apprenticeship, the applicant shall appear before the board to be tested on the applicant's legal and practical knowledge of funeral directing, funeral home licensing, preneed funeral contracts and the care, custody, shelter, disposition and transportation of dead human bodies. Upon acceptance of the application and fees by the board, an applicant shall have twenty-four months to successfully complete the requirements for licensure found in this section or the application for licensure shall be canceled.

2. If a person applies for a limited license to work only in a funeral establishment which is licensed only for cremation, including transportation of dead human bodies to and from the funeral establishment, he or she shall make application, pay the current application and examination fee and successfully complete the Missouri law examination. He or she shall be exempt from the twelve-month apprenticeship **required by subsection 1 of this section** and the practical examination before the board. If a person has a limited license issued pursuant to this subsection, he or she may obtain a full funeral director's license if he or she fulfills the apprenticeship and successfully completes the funeral director practical examination.

3. If an individual is a Missouri licensed embalmer or has [graduated from an institute of mortuary science education] **completed a program** accredited by the American Board of Funeral Service Education [or], any successor organization [recognized by the United States Department of Education for funeral service education], **or other accrediting entity as approved by the board** or has successfully completed a course of study in funeral directing offered by [a college] **an institution** accredited by a recognized national, regional or state accrediting body and approved by the state board of embalmers and funeral directors, and desires to enter the profession of funeral directing in this state, the individual shall comply with all the requirements for licensure as a funeral director pursuant to subsection 1 of section 333.041 and subsection 1 of this section; however, the individual is exempt from the twelve-month apprenticeship required by subsection 1 of this section.

**333.051. RECOGNITION OF PERSONS LICENSED IN OTHER STATES — FEES.** — 1. Any [nonresident] individual holding a valid, unrevoked and unexpired license as a funeral director or embalmer in the state of his **or her** residence may be granted a license to practice funeral directing or embalming in this state on application to the board and on providing the board with such evidence as to his **or her** qualifications as is required by the board. [No license shall be granted to a nonresident applicant except one who resides in a county contiguous and adjacent to the state of Missouri and who is regularly engaged in the practice of funeral directing or embalming, as defined by this chapter, at funeral establishments within this state or in an establishment located in a county contiguous and adjacent to the state of Missouri, unless the law of the state of the applicant's residence authorizes the granting of licenses to practice funeral directing in such state to persons licensed as funeral directors under the law of the state of Missouri.]

2. Any individual holding a valid, unrevoked and unexpired license as an embalmer or funeral director in another state having requirements substantially similar to those existing in this state [who is or intends to become a resident of this state] may apply for a license to practice in this state by filing with the board a certified statement from the examining board of the state or territory in which the applicant holds his **or her** license showing the grade rating upon which [his] **the** license was granted, together with a recommendation, and the board shall grant the applicant a license upon his **or her** successful completion of an examination over Missouri laws as required in section 333.041 or section 333.042 if the board finds that the applicant's qualifications meet the requirements for funeral directors or embalmers in this state at the time the applicant was originally licensed in the other state.

3. A person holding a valid, unrevoked and unexpired license to practice funeral directing or embalming in another state or territory with requirements less than those of this state may, after five consecutive years of active experience as a licensed funeral director or embalmer in that state, apply for a license to practice in this state after passing a test to prove his **or her** proficiency, including but not limited to a knowledge of the laws and regulations of this state as to funeral directing and embalming.

**333.061. NO FUNERAL ESTABLISHMENT TO BE OPERATED BY UNLICENSED PERSON — LICENSE REQUIREMENTS, APPLICATION PROCEDURE — LICENSE MAY BE SUSPENDED OR**

**REVOKED OR NOT RENEWED.** — 1. No funeral establishment shall be operated in this state unless the owner or operator thereof has a license issued by the board.

2. A license for the operation of a funeral establishment shall be issued by the board, if the board finds:

(1) That the establishment is under the general management and the supervision of a duly licensed funeral director;

(2) That all embalming performed therein is performed by or under the direct supervision of a duly licensed embalmer;

(3) That any place in the funeral establishment where embalming is conducted contains a preparation room with a sanitary floor, walls and ceiling, and adequate sanitary drainage and disposal facilities including running water, and complies with the sanitary standard prescribed by the department of health and senior services for the prevention of the spread of contagious, infectious or communicable diseases;

(4) Each funeral establishment shall have [available in the preparation or embalming room] a register book or log which shall be available at all times [in full view] for the board's inspector and [the name of each body embalmed, place, if other than at the establishment, the date and time that the embalming took place, the name and signature of the embalmer and the embalmer's license number shall be noted in the book] **that shall contain:**

(a) **The name of each body that has been in the establishment;**

(b) **The date the body arrived at the establishment;**

(c) **If applicable, the place of embalming, if known; and**

(d) **If the body was embalmed at the establishment, the date and time that the embalming took place, and the name, signature, and license number of the embalmer;** and

(5) The establishment complies with all applicable state, county or municipal zoning ordinances and regulations.

3. The board shall grant or deny each application for a license pursuant to this section within thirty days after it is filed. The applicant may request in writing up to two thirty-day extensions of the application, provided the request for an extension is received by the board prior to the expiration of the thirty-day application or extension period.

4. Licenses shall be issued pursuant to this section upon application and the payment of a funeral establishment fee and shall be renewed at the end of the licensing period on the establishment's renewal date.

5. The board may refuse to renew or may suspend or revoke any license issued pursuant to this section if it finds, after hearing, that the funeral establishment does not meet any of the requirements set forth in this section as conditions for the issuance of a license, or for the violation by the owner of the funeral establishment of any of the provisions of section 333.121. No new license shall be issued to the owner of a funeral establishment or to any corporation controlled by such owner for three years after the revocation of the license of the owner or of a corporation controlled by the owner. Before any action is taken pursuant to this subsection the procedure for notice and hearing as prescribed by section 333.121 shall be followed.

**333.091. LICENSE TO BE DISPLAYED.** — [Each establishment, funeral director or embalmer receiving a license under this chapter shall have recorded in the office of the local registrar of vital statistics of the registration district in which the licensee practices.] All licenses or registrations, or duplicates thereof, issued pursuant to this chapter shall be displayed at each place of business.

**333.151. BOARD MEMBERS — QUALIFICATIONS — TERMS — VACANCIES.** — 1. The state board of embalmers and funeral directors shall consist of [ten] **six** members, including one voting public member appointed by the governor with the advice and consent of the senate. Each member, other than the public member, appointed shall possess either a license to practice



embalming or a license to practice funeral directing in this state or both said licenses and shall have been actively engaged in the practice of embalming or funeral directing for a period of five years next before his or her appointment. Each member shall be a United States citizen, a resident of this state for a period of at least one year, a qualified voter of this state and shall be of good moral character. Not more than [five] **three** members of the board shall be of the same political party. The nonpublic members shall be appointed by the governor, with the advice and consent of the senate[, one from each of the state's congressional districts be of good moral character and submit an audited financial statement of their funeral establishment by an independent auditor for the previous five years. This audited financial statement must include all at-need and preneed business]. **A majority of the members shall constitute a quorum. Members shall be appointed to represent diversity in gender, race, ethnicity, and the various geographic regions of the state.**

2. Each member of the board shall serve for a term of five years. Any vacancy on the board shall be filled by the governor and the person appointed to fill the vacancy shall possess the qualifications required by this chapter and shall serve until the end of the unexpired term of his or her predecessor, if any.

3. The public member shall be at the time of his or her appointment a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

**333.171. BOARD MEETINGS — NOTICE — SEAL.** — The board shall hold at least two regular meetings each year for the purpose of administering examinations at times and places fixed by the board. Other meetings shall be held at the times fixed by regulations of the board or on the call of the chairman of the board. Notice of the time and place of each regular or special meeting shall be mailed by the executive secretary to each member of the board at least five days before the date of the meeting. [At all meetings of the board three members constitute a quorum.] The board may adopt and use a common seal.

**335.036. DUTIES OF BOARD — FEES SET, HOW — FUND, SOURCE, USE, FUNDS TRANSFERRED FROM, WHEN — RULEMAKING.**— 1. The board shall:

(1) Elect for a one-year term a president and a secretary, who shall also be treasurer, and the board may appoint, employ and fix the compensation of a legal counsel and such board personnel as defined in subdivision (4) of subsection 10 of section 324.001 as are necessary to administer the provisions of sections 335.011 to 335.096;

(2) Adopt and revise such rules and regulations as may be necessary to enable it to carry into effect the provisions of sections 335.011 to 335.096;

(3) Prescribe minimum standards for educational programs preparing persons for licensure pursuant to the provisions of sections 335.011 to 335.096;

(4) Provide for surveys of such programs every five years and in addition at such times as it may deem necessary;

(5) Designate as "approved" such programs as meet the requirements of sections 335.011 to 335.096 and the rules and regulations enacted pursuant to such sections; and the board shall annually publish a list of such programs;

(6) Deny or withdraw approval from educational programs for failure to meet prescribed minimum standards;

(7) Examine, license, and cause to be renewed the licenses of duly qualified applicants;

(8) Cause the prosecution of all persons violating provisions of sections 335.011 to 335.096, and may incur such necessary expenses therefor;

(9) Keep a record of all the proceedings; and make an annual report to the governor and to the director of the department of insurance, financial institutions and professional registration;

(10) Establish an impaired nurse program.

2. The board shall set the amount of the fees which this chapter authorizes and requires by rules and regulations. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.

3. All fees received by the board pursuant to the provisions of sections 335.011 to 335.096 shall be deposited in the state treasury and be placed to the credit of the state board of nursing fund. All administrative costs and expenses of the board shall be paid from appropriations made for those purposes. **The board is authorized to provide funding for the nursing education incentive program established in sections 335.200 to 335.203.**

4. The provisions of section 33.080 to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule, permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

5. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this chapter shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

**335.099. LICENSED PRACTICAL NURSE, ADDITIONAL AUTHORIZED ACTS. — Any licensed practical nurse, as defined in section 335.016:**

(1) **Who is an approved instructor for the level 1 medication aid program shall be qualified to teach the insulin administration course under chapter 198;**

(2) **Shall be qualified to perform diabetic nail care and monthly onsite reviews of basic personal care recipients, as required by the department of social services, of a resident of a residential care facility or assisted living facility, as defined in chapter 198;**

(3) **Shall be qualified to perform dietary oversight, as required by the department of health and senior services, of a resident of a residential care facility or assisted living facility, as defined in chapter 198.**

**335.200. NURSE EDUCATION INCENTIVE GRANTS — DEFINITIONS. —** As used in sections 335.200 to [335.209] **335.203**, the following terms mean:

(1) "Board", the [Missouri coordinating board for higher education] **state board of nursing;**

(2) "Department", the **Missouri department of higher education;**

(3) "Eligible [nursing program] **institution of higher education**", a Missouri institution of higher education accredited by the higher learning commission of the north central association which offers a nursing education program [accredited under this chapter];

[(3) "Fund", the nurse training incentive fund, established in section 335.203;]

(4) "[Incentive] Grant", a grant awarded to [a nurse education program] **an eligible institution of higher education** under the guidelines set forth in sections **335.200 to 335.203** [to 335.209;

(5) "Nontraditional student", a person admitted to an eligible nursing program that is older than twenty-two years of age at the time he is admitted to the nursing program;

(6) "Nurse", a person holding a license as a registered nurse, pursuant to this chapter; and

(7) "Professional nursing education program", a program of education accredited by the state board of nursing, pursuant to this chapter, designed to prepare persons for licensure as registered professional nurses with an enrollment of no less than sixty-five percent of the enrollment approved by the state board of nursing].

**335.203. NURSING EDUCATION INCENTIVE PROGRAM ESTABLISHED — GRANTS AUTHORIZED, LIMIT, ELIGIBILITY — ADMINISTRATION — RULEMAKING AUTHORITY.** — [The "Nurse Training Incentive Fund" is hereby established in the state treasury. The fund shall be administered by the coordinating board for higher education. The board shall base its appropriation request on enrollment, graduation and licensure figures for the previous year. The board may accept funds from private, federal and other sources for the purposes of sections 335.200 to 335.209. All appropriations, private donations, and other funds provided to the board for the implementation of sections 335.200 to 335.209 shall be placed in the nurse training incentive fund. Notwithstanding the provisions of section 33.080 to the contrary, funds in the nurse training incentive fund shall not revert to the general revenue fund. Interest accruing to the fund shall be part of the fund. Grants provided pursuant to section 335.206 shall be made within the amounts appropriated therefor.] **1. There is hereby established the "Nursing Education Incentive Program" within the department of higher education.**

**2. Subject to appropriation, grants shall be awarded through the nursing education incentive program to eligible institutions of higher education based on criteria jointly determined by the board and the department. Grant award amounts shall not exceed one hundred fifty thousand dollars. No campus shall receive more than one grant per year.**

**3. To be considered for a grant, an eligible institution of higher education shall offer a program of nursing that meets the predetermined category and area of need as established by the board and the department under subsection 4 of this section.**

**4. The board and the department shall determine categories and areas of need for designating grants to eligible institutions of higher education. In establishing categories and areas of need, the board and department may consider criteria including, but not limited to:**

**(1) Data generated from licensure renewal data and the department of health and senior services; and**

**(2) National nursing statistical data and trends that have identified nursing shortages.**

**5. The department shall be the administrative agency responsible for implementation of the program established under sections 335.200 to 335.203, and shall promulgate reasonable rules for the exercise of its functions and the effectuation of the purposes of sections 335.200 to 335.203. The department shall, by rule, prescribe the form, time, and method of filing applications and shall supervise the processing of such applications.**

**6. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable,**

section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2011, shall be invalid and void.

**338.010. PRACTICE OF PHARMACY DEFINED — AUXILIARY PERSONNEL — WRITTEN PROTOCOL REQUIRED, WHEN — NONPRESCRIPTION DRUGS — RULEMAKING AUTHORITY — THERAPEUTIC PLAN REQUIREMENTS — VETERINARIAN DEFINED.** — 1. The "practice of pharmacy" means the interpretation, implementation, and evaluation of medical prescription orders, including **any legend drugs under 21 U.S.C. Section 353**; receipt, transmission, or handling of such orders or facilitating the dispensing of such orders; the designing, initiating, implementing, and monitoring of a medication therapeutic plan as defined by the prescription order so long as the prescription order is specific to each patient for care by a pharmacist; the compounding, dispensing, labeling, and administration of drugs and devices pursuant to medical prescription orders and administration of viral influenza, pneumonia, shingles and meningitis vaccines by written protocol authorized by a physician for persons twelve years of age or older as authorized by rule or the administration of pneumonia, shingles, and meningitis vaccines by written protocol authorized by a physician for a specific patient as authorized by rule; the participation in drug selection according to state law and participation in drug utilization reviews; the proper and safe storage of drugs and devices and the maintenance of proper records thereof; consultation with patients and other health care practitioners, **and veterinarians and their clients about legend drugs**, about the safe and effective use of drugs and devices; and the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management and control of a pharmacy. No person shall engage in the practice of pharmacy unless he is licensed under the provisions of this chapter. This chapter shall not be construed to prohibit the use of auxiliary personnel under the direct supervision of a pharmacist from assisting the pharmacist in any of his **or her** duties. This assistance in no way is intended to relieve the pharmacist from his **or her** responsibilities for compliance with this chapter and he **or she** will be responsible for the actions of the auxiliary personnel acting in his **or her** assistance. This chapter shall also not be construed to prohibit or interfere with any legally registered practitioner of medicine, dentistry, **or** podiatry, or veterinary medicine **only for use in animals**, or the practice of optometry in accordance with and as provided in sections 195.070 and 336.220 in the compounding, **administering, prescribing**, or dispensing of his **or her** own prescriptions.

2. Any pharmacist who accepts a prescription order for a medication therapeutic plan shall have a written protocol from the physician who refers the patient for medication therapy services. The written protocol and the prescription order for a medication therapeutic plan shall come from the physician only, and shall not come from a nurse engaged in a collaborative practice arrangement under section 334.104, or from a physician assistant engaged in a supervision agreement under section 334.735.

3. Nothing in this section shall be construed as to prevent any person, firm or corporation from owning a pharmacy regulated by sections 338.210 to 338.315, provided that a licensed pharmacist is in charge of such pharmacy.

4. Nothing in this section shall be construed to apply to or interfere with the sale of nonprescription drugs and the ordinary household remedies and such drugs or medicines as are normally sold by those engaged in the sale of general merchandise.

5. No health carrier as defined in chapter 376 shall require any physician with which they contract to enter into a written protocol with a pharmacist for medication therapeutic services.

6. This section shall not be construed to allow a pharmacist to diagnose or independently prescribe pharmaceuticals.

7. The state board of registration for the healing arts, under section 334.125, and the state board of pharmacy, under section 338.140, shall jointly promulgate rules regulating the use of protocols for prescription orders for medication therapy services and administration of viral influenza vaccines. Such rules shall require protocols to include provisions allowing for timely communication between the pharmacist and the referring physician, and any other patient protection provisions deemed appropriate by both boards. In order to take effect, such rules shall be approved by a majority vote of a quorum of each board. Neither board shall separately promulgate rules regulating the use of protocols for prescription orders for medication therapy services and administration of viral influenza vaccines. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

8. The state board of pharmacy may grant a certificate of medication therapeutic plan authority to a licensed pharmacist who submits proof of successful completion of a board-approved course of academic clinical study beyond a bachelor of science in pharmacy, including but not limited to clinical assessment skills, from a nationally accredited college or university, or a certification of equivalence issued by a nationally recognized professional organization and approved by the board of pharmacy.

9. Any pharmacist who has received a certificate of medication therapeutic plan authority may engage in the designing, initiating, implementing, and monitoring of a medication therapeutic plan as defined by a prescription order from a physician that is specific to each patient for care by a pharmacist.

10. Nothing in this section shall be construed to allow a pharmacist to make a therapeutic substitution of a pharmaceutical prescribed by a physician unless authorized by the written protocol or the physician's prescription order.

**11. "Veterinarian", "doctor of veterinary medicine", "practitioner of veterinary medicine", "DVM", "VMD", "BVSe", "BVMS", "BSe (Vet Science)", "VMB", "MRCVS", or an equivalent title means a person who has received a doctor's degree in veterinary medicine from an accredited school of veterinary medicine or holds an Educational Commission for Foreign Veterinary Graduates (EDFVG) certificate issued by the American Veterinary Medical Association (AVMA).**

**338.140. BOARD OF PHARMACY, POWERS, DUTIES — ADVISORY COMMITTEE, APPOINTMENT, DUTIES — LETTERS OF REPRIMAND, CENSURE OR WARNING.** — 1. The board of pharmacy shall have a common seal, and shall have power to adopt such rules and bylaws not inconsistent with law as may be necessary for the regulation of its proceedings and for the discharge of the duties imposed pursuant to sections 338.010 to 338.198, and shall have power to employ an attorney to conduct prosecutions or to assist in the conduct of prosecutions pursuant to sections 338.010 to 338.198.

2. The board shall keep a record of its proceedings.

3. The board of pharmacy shall make annually to the governor and, upon written request, to persons licensed pursuant to the provisions of this chapter a written report of its proceedings.

4. The board of pharmacy shall appoint an advisory committee composed of [five] **six** members, one of whom shall be a representative of pharmacy but who shall not be a member of the pharmacy board, three of whom shall be representatives of wholesale drug distributors as defined in section 338.330, [and] one of whom shall be a representative of drug manufacturers, **and one of whom shall be a licensed veterinarian recommended to the board of pharmacy**

**by the board of veterinary medicine.** The committee shall review and make recommendations to the board on the merit of all rules and regulations dealing with pharmacy distributors, wholesale drug distributors [and], drug manufacturers, **and veterinary legend drugs** which are proposed by the board.

5. A majority of the board shall constitute a quorum for the transaction of business.

6. Notwithstanding any other provisions of law to the contrary, the board may issue letters of reprimand, censure or warning to any holder of a license or registration required pursuant to this chapter for any violations that could result in disciplinary action as defined in section 338.055.

**338.150. INSPECTIONS BY AUTHORIZED REPRESENTATIVES OF BOARD, WHERE.** — Any person authorized by the board of pharmacy is hereby given the right of entry and inspection upon all open premises purporting or appearing to be drug or chemical stores, apothecary shops, pharmacies or places of business for exposing for sale, or the dispensing or selling of drugs, pharmaceuticals, medicines, chemicals or poisons or for the compounding of physicians' **or veterinarians'** prescriptions.

**338.210. PHARMACY DEFINED — PRACTICE OF PHARMACY TO BE CONDUCTED AT PHARMACY LOCATION — RULEMAKING AUTHORITY.** — 1. Pharmacy refers to any location where the practice of pharmacy occurs or such activities are offered or provided by a pharmacist or another acting under the supervision and authority of a pharmacist, including every premises or other place:

(1) Where the practice of pharmacy is offered or conducted;

(2) Where drugs, chemicals, medicines, **any legend drugs under 21 U.S.C. Section 353**, prescriptions, or poisons are compounded, prepared, dispensed or sold or offered for sale at retail;

(3) Where the words "pharmacist", "apothecary", "drugstore", "drugs", and any other symbols, words or phrases of similar meaning or understanding are used in any form to advertise retail products or services;

(4) Where patient records or other information is maintained for the purpose of engaging or offering to engage in the practice of pharmacy or to comply with any relevant laws regulating the acquisition, possession, handling, transfer, sale or destruction of drugs, chemicals, medicines, prescriptions or poisons.

2. All activity or conduct involving the practice of pharmacy as it relates to an identifiable prescription or drug order shall occur at the pharmacy location where such identifiable prescription or drug order is first presented by the patient or the patient's authorized agent for preparation or dispensing, unless otherwise expressly authorized by the board.

3. The requirements set forth in subsection 2 of this section shall not be construed to bar the complete transfer of an identifiable prescription or drug order pursuant to a verbal request by or the written consent of the patient or the patient's authorized agent.

4. The board is hereby authorized to enact rules waiving the requirements of subsection 2 of this section and establishing such terms and conditions as it deems necessary, whereby any activities related to the preparation, dispensing or recording of an identifiable prescription or drug order may be shared between separately licensed facilities.

5. If a violation of this chapter or other relevant law occurs in connection with or adjunct to the preparation or dispensing of a prescription or drug order, any permit holder or pharmacist-in-charge at any facility participating in the preparation, dispensing, or distribution of a prescription or drug order may be deemed liable for such violation.

6. Nothing in this section shall be construed to supersede the provisions of section 197.100.

**338.220. OPERATION OF PHARMACY WITHOUT PERMIT OR LICENSE UNLAWFUL — APPLICATION FOR PERMIT, CLASSIFICATIONS, FEE — DURATION OF PERMIT.** — 1. It shall be

unlawful for any person, copartnership, association, corporation or any other business entity to open, establish, operate, or maintain any pharmacy as defined by statute without first obtaining a permit or license to do so from the Missouri board of pharmacy. A permit shall not be required for an individual licensed pharmacist to perform nondispensing activities outside of a pharmacy, as provided by the rules of the board. A permit shall not be required for an individual licensed pharmacist to administer drugs, vaccines, and biologicals by protocol, as permitted by law, outside of a pharmacy. The following classes of pharmacy permits or licenses are hereby established:

- (1) Class A: Community/ambulatory;
- (2) Class B: Hospital outpatient pharmacy;
- (3) Class C: Long-term care;
- (4) Class D: Nonsterile compounding;
- (5) Class E: Radio pharmaceutical;
- (6) Class F: Renal dialysis;
- (7) Class G: Medical gas;
- (8) Class H: Sterile product compounding;
- (9) Class I: Consultant services;
- (10) Class J: Shared service;
- (11) Class K: Internet;
- (12) Class L: Veterinary.

2. Application for such permit or license shall be made upon a form furnished to the applicant; shall contain a statement that it is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the person signing same, subject to the penalties of making a false affidavit or declaration; and shall be accompanied by a permit or license fee. The permit or license issued shall be renewable upon payment of a renewal fee. Separate applications shall be made and separate permits or licenses required for each pharmacy opened, established, operated, or maintained by the same owner.

3. All permits, licenses or renewal fees collected pursuant to the provisions of sections 338.210 to 338.370 shall be deposited in the state treasury to the credit of the Missouri board of pharmacy fund, to be used by the Missouri board of pharmacy in the enforcement of the provisions of sections 338.210 to 338.370, when appropriated for that purpose by the general assembly.

4. Class L: veterinary permit shall not be construed to prohibit or interfere with any legally registered practitioner of veterinary medicine in the compounding, **administering, prescribing, or dispensing of their own prescriptions, or medicine, drug, or pharmaceutical product to be used for animals.**

5. [Notwithstanding any other law to the contrary] **Except for any legend drugs under 21 U.S.C. Section 353**, the provisions of this section shall not apply to the sale, dispensing, or filling of a pharmaceutical product or drug used for treating animals.

**338.240. EVIDENCE REQUIRED FOR ISSUANCE OF PERMIT — VETERINARY PERMIT PHARMACY, DESIGNATION OF SUPERVISING REGISTERED PHARMACIST, WHEN. — 1.** Upon evidence satisfactory to the said Missouri board of pharmacy:

- (1) That the pharmacy for which a permit, or renewal thereof, is sought, will be conducted in full compliance with sections 338.210 to 338.300, with existing laws, and with the rules and regulations as established hereunder by said board;
- (2) That the equipment and facilities of such pharmacy are such that it can be operated in a manner not to endanger the public health or safety;
- (3) That such pharmacy is equipped with proper pharmaceutical and sanitary appliances and kept in a clean, sanitary and orderly manner;

(4) That the management of said pharmacy is under the supervision of either a registered pharmacist, or an owner or employee of the owner, who has at his **or her** place of business a registered pharmacist employed for the purpose of compounding physician's **or veterinarian's** prescriptions in the event any such prescriptions are compounded or sold;

(5) That said pharmacy is operated in compliance with the rules and regulations legally prescribed with respect thereto by the Missouri board of pharmacy, a permit or renewal thereof shall be issued to such persons as the said board of pharmacy shall deem qualified to conduct such pharmacy.

**2. In lieu of a registered pharmacist as required by subdivision (4) of subsection 1 of this section, a pharmacy permit holder that only holds a class L veterinary permit and no other pharmacy permit, may designate a supervising registered pharmacist who shall be responsible for reviewing the activities and records of the class L pharmacy permit holder as established by the board by rule. The supervising registered pharmacist shall not be required to be physically present on site during the business operations of a class L pharmacy permit holder identified in subdivision (5) of subsection 1 of this section when noncontrolled legend drugs under 21 U.S.C. Section 353 are being dispensed for use in animals, but shall be specifically present on site when any noncontrolled drugs for use in animals are being compounded.**

**338.315. RECEIPT OF DRUGS FROM UNLICENSED DISTRIBUTOR OR PHARMACY, UNLAWFUL — PENALTY.** — It shall be unlawful for any pharmacist, pharmacy owner or person employed by a pharmacy to knowingly purchase or receive any legend drugs **under 21 U.S.C. Section 353** from other than a licensed or registered drug distributor or licensed pharmacy. Any person who violates the provisions of this section shall, upon conviction, be adjudged guilty of a class A misdemeanor. Any subsequent conviction shall constitute a class D felony.

**338.330. DEFINITIONS.** — As used in sections 338.300 to 338.370, the following terms mean:

(1) "Out-of-state wholesale drug distributor", a wholesale drug distributor with no physical facilities located in the state;

(2) "Pharmacy distributor", any licensed pharmacy, as defined in section 338.210, engaged in the delivery or distribution of legend drugs to any other licensed pharmacy where such delivery or distribution constitutes at least five percent of the total gross sales of such pharmacy;

(3) "**Legend drug**";

(a) **Any drug or biological product:**

a. Subject to Section 503(b) of the Federal Food, Drug and Cosmetic Act, including finished dosage forms and active ingredients subject to such section;

b. Required under federal law to be labeled with one of the following statements prior to being dispensed or delivered:

(i) "Caution: Federal law prohibits dispensing without prescription";

(ii) "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian"; or

(iii) "Rx only";

c. Required by any applicable federal or state law or regulation to be dispensed by prescription only or that is restricted to use or dispensed by practitioners only;

(b) The term "drug", "prescription drug", or "legend drug" shall not include:

a. An investigational new drug, as defined in 21 CFR 312.3(b), that is being utilized for the purposes of conducting a clinical trial or investigation of such drug or product that is governed by and being conducted under 21 CFR 312, et seq.;



**b. Any drug product being utilized for the purposes of conducting a clinical trial or investigation that is governed by and being conducted under 21 CFR 312, et seq.;**

**c. Any drug product being utilized for the purposes of conducting a clinical trial or investigation that is governed or approved by an institutional review board subject to 21 CFR Part 56 or 45 CFR Part 46;**

(4) "Wholesale drug distributor", anyone engaged in the delivery or distribution of legend drugs from any location and who is involved in the actual, constructive or attempted transfer of a drug or drug-related device in this state, other than to the ultimate consumer. This shall include, but not be limited to, drug wholesalers, repackagers and manufacturers which are engaged in the delivery or distribution of drugs in this state, with facilities located in this state or in any other state or jurisdiction. A wholesale drug distributor shall not include any common carrier or individual hired solely to transport legend drugs. Any locations where drugs are delivered on a consignment basis, as defined by the board, shall be exempt from licensure as a drug distributor, and those standards of practice required of a drug distributor but shall be open for inspection by board of pharmacy representatives as provided for in section 338.360.

**339.190. REAL ESTATE LICENSEE, IMMUNITY FROM LIABILITY, WHEN.** — 1. A real estate licensee shall be immune from liability for statements made by engineers, land surveyors, geologists, environmental hazard experts, wood-destroying inspection and control experts, termite inspectors, mortgage brokers, home inspectors, or other home inspection experts unless:

(1) The statement was made by a person employed by the licensee or the broker with whom the licensee is associated;

(2) The person making the statement was selected by and engaged by the licensee. **For purposes of this section, the ordering of a report or inspection alone shall not constitute selecting or engaging a person;** or

(3) The licensee knew prior to closing that the statement was false or the licensee acted in reckless disregard as to whether the statement was true or false.

2. A real estate licensee shall not be the subject of any action and no action shall be instituted against a real estate licensee for any information contained in a seller's disclosure for residential, commercial, industrial, farm, or vacant real estate furnished to a buyer, unless the real estate licensee is a signatory to such or the licensee knew prior to closing that the statement was false or the licensee acted in reckless disregard as to whether the statement was true or false.

3. A real estate licensee acting as a courier of documents referenced in this section shall not be considered to be making the statements contained in such documents.

**429.015. LIEN AUTHORIZED FOR ARCHITECTURAL, PROFESSIONAL ENGINEERING, LAND SURVEY, OR LANDSCAPE ARCHITECTURE — EXTENT OF LIEN — PRIORITY — DEFENSES.** —

1. Every registered architect or corporation registered to practice architecture, every registered professional engineer or corporation registered to practice professional engineering, every registered landscape architect or corporation registered to practice landscape architecture, and every registered land surveyor or corporation registered to practice land surveying, who does any landscape architectural, architectural, engineering or land surveying work upon or performs any landscape architectural, architectural, engineering or land surveying service directly connected with the erection or repair of any building or other improvement upon land under or by virtue of any contract with the owner or lessee thereof, or such owner's or lessee's agent, trustee, contractor or subcontractor, or without a contract if ordered by a city, town, village or county having a charter form of government to abate the conditions that caused a structure on that property to be deemed a dangerous building under local ordinances pursuant to section 67.410, upon complying with the provisions of this chapter, shall have for such person's landscape architectural, architectural, engineering or land surveying work or service so done or performed, a lien upon the building or other improvements and upon the land belonging to the owner or lessee on which the building or

improvements are situated, to the extent of [one acre] **three acres**. If the building or other improvement is upon any lot of land in any town, city or village, then the lien shall be upon such building or other improvements, and the lot or land upon which the building or other improvements are situated, to secure the payment for the landscape architectural, architectural, engineering or land surveying work or service so done or performed. For purposes of this section, a corporation engaged in the practice of architecture, engineering, landscape architecture, or land surveying, shall be deemed to be registered if the corporation itself is registered under the laws of this state to practice architecture, engineering or land surveying.

2. Every mechanic or other person who shall do or perform any work or labor upon or furnish any material or machinery for the digging of a well to obtain water under or by virtue of any contract with the owner or lessee thereof, or such owner's or lessee's agent, trustee, contractor or subcontractor, upon complying with the provisions of sections 429.010 to 429.340 shall have for such person's work or labor done, or materials or machinery furnished, a lien upon the land belonging to such owner or lessee on which the same are situated, to the extent of [one acre] **three acres**, to secure the payment of such work or labor done, or materials or machinery furnished as aforesaid.

3. Every mechanic or other person who shall do or perform any work or labor upon, or furnish any material, fixtures, engine, boiler or machinery, for the purpose of demolishing or razing a building or structure under or by virtue of any contract with the owner or lessee thereof, or such owner's or lessee's agent, trustee, contractor or subcontractor, or without a contract if ordered by a city, town, village or county having a charter form of government to abate the conditions that caused a structure on that property to be deemed a dangerous building under local ordinances pursuant to section 67.410, upon complying with the provisions of sections 429.010 to 429.340, shall have for such person's work or labor done, or materials, fixtures, engine, boiler or machinery furnished, a lien upon the land belonging to such owner or lessee on which the same are situated, to the extent of [one acre] **three acres**. If the building or buildings to be demolished or razed are upon any lot of land in any town, city or village, then the lien shall be upon the lot or lots or land upon which the building or other improvements are situated, to secure the payment for the labor and materials performed.

4. The provisions of sections 429.030 to 429.060 and sections 429.080 to 429.430 applicable to liens of mechanics and other persons shall apply to and govern the procedure with respect to the liens provided for in subsections 1, 2 and 3 of this section.

5. Any design professional or corporation authorized to have lien rights under subsection 1 of this section shall have a lien upon the building or other improvement and upon the land, whether or not actual construction of the planned work or improvement has commenced if:

(1) The owner or lessee thereof, or such owner's or lessee's agent or trustee, contracted for such professional services directly with the design professional or corporation asserting the lien; and

(2) The owner or lessee is the owner or lessee of such real property either at the time the contract is made or at the time the lien is filed.

6. Priority between a design professional or corporation lien claimant and any other mechanic's lien claimant shall be determined pursuant to the provisions of section 429.260 on a pro rata basis.

7. In any civil action, the owner or lessee may assert defenses which include that the actual construction of the planned work or improvement has not been performed in compliance with the professional services contract, is impracticable or is economically infeasible.

8. The agreement is in writing.

**436.405. DEFINITIONS.** — 1. As used in sections 436.400 to 436.520, unless the context otherwise requires, the following terms shall mean:

(1) "Beneficiary", the individual who is to be the subject of the disposition or who will receive funeral services, facilities, or merchandise described in a preneed contract;

(2) **"Board", the board of embalmers and funeral directors;**

(3) "Guaranteed contract", a preneed contract in which the seller promises, assures, or guarantees to the purchaser that all or any portion of the costs for the disposition, services, facilities, or merchandise identified in a preneed contract will be no greater than the amount designated in the contract upon the preneed beneficiary's death or that such costs will be otherwise limited or restricted;

[(3)] (4) "Insurance-funded preneed contract", a preneed contract which is designated to be funded by payments or proceeds from an insurance policy or [single premium] **a deferred annuity contract that is not classified as a variable annuity and has death benefit proceeds that are never less than the sum of premiums paid;**

[(4)] (5) "Joint account-funded preneed contract", a preneed contract which designates that payments for the preneed contract made by or on behalf of the purchaser will be deposited and maintained in a joint account in the names of the purchaser and seller, as provided in this chapter;

[(5)] (6) "Market value", a fair market value:

(a) As to cash, the amount thereof;

(b) As to a security as of any date, the price for the security as of that date obtained from a generally recognized source, or to the extent no generally recognized source exists, the price to sell the security in an orderly transaction between unrelated market participants at the measurement date; and

(c) As to any other asset, the price to sell the asset in an orderly transaction between unrelated market participants at the measurement date consistent with statements of financial accounting standards;

[(6)] (7) "Nonguaranteed contract", a preneed contract in which the seller does not promise, assure, or guarantee that all or any portion of the costs for the disposition, facilities, service, or merchandise identified in a preneed contract will be limited to the amount designated in the contract upon the preneed beneficiary's death or that such costs will be otherwise limited or restricted;

[(7)] (8) "Preneed contract", any contract or other arrangement which provides for the final disposition in Missouri of a dead human body, funeral or burial services or facilities, or funeral merchandise, where such disposition, services, facilities, or merchandise are not immediately required. Such contracts include, but are not limited to, agreements providing for a membership fee or any other fee for the purpose of furnishing final disposition, funeral or burial services or facilities, or funeral merchandise at a discount or at a future date;

[(8)] (9) "Preneed trust", a trust to receive deposits of, administer, and disburse payments received under preneed contracts, together with income thereon;

[(9)] (10) "Purchaser", the person who is obligated to pay under a preneed contract;

[(10)] (11) "Trustee", the trustee of a preneed trust, including successor trustees;

[(11)] (12) "Trust-funded preneed contract", a preneed contract which provides that payments for the preneed contract shall be deposited and maintained in trust.

2. All terms defined in chapter 333 shall be deemed to have the same meaning when used in sections 436.400 to 436.520.

**436.412. VIOLATIONS, DISCIPLINARY ACTIONS AUTHORIZED — GOVERNING LAW FOR CONTRACTS.** — Each preneed contract made before August 28, 2009, and all payments and disbursements under such contract shall continue to be governed by this chapter as the chapter existed at the time the contract was made. Any licensee or registrant of the board may be disciplined for violation of any provision of sections 436.005 to 436.071 within the applicable statute of limitations. [In addition, the provisions of section 436.031, as it existed on August 27, 2009, shall continue to govern disbursements to the seller from the trust and payment of trust

expenses.] Joint accounts in existence as of August 27, 2009, shall continue to be governed by the provisions of section 436.053, as that section existed on August 27, 2009.

**436.445. TRUSTEE NOT TO MAKE DECISIONS, WHEN.** — A trustee of any preneed trust, including trusts established before August 28, 2009, shall not after August 28, 2009, make any decisions to invest any trust fund with:

- (1) The spouse of the trustee;
- (2) The descendants, siblings, parents, or spouses of a seller or an officer, manager, director or employee of a seller, provider, or preneed agent;
- (3) Agents, **other than authorized external investment advisors as authorized by section 436.440**, or attorneys of a trustee, seller, or provider; or
- (4) A corporation or other person or enterprise in which the trustee, seller, or provider owns a controlling interest or has an interest that might affect the trustee's judgment.

**436.450. INSURANCE-FUNDED PRENEED CONTRACT REQUIREMENTS.** — 1. An insurance-funded preneed contract shall comply with sections 436.400 to 436.520 and the specific requirements of this section.

2. A seller, provider, or any preneed agent shall not receive or collect from the purchaser of an insurance-funded preneed contract any amount in excess of what is required to pay the premiums on the insurance policy as assessed or required by the insurer as premium payments for the insurance policy except for any amount required or authorized by this chapter or by rule. A seller shall not receive or collect any administrative or other fee from the purchaser for or in connection with an insurance-funded preneed contract, other than those fees or amounts assessed by the insurer. As of August 29, 2009, no preneed seller, provider, or agent shall use any existing preneed contract as collateral or security pledged for a loan or take preneed funds of any existing preneed contract as a loan for any purpose other than as authorized by this chapter.

3. Payments collected by or on behalf of a seller for an insurance-funded preneed contract shall be promptly remitted to the insurer or the insurer's designee as required by the insurer; provided that payments shall not be retained or held by the seller or preneed agent for more than thirty days from the date of receipt.

4. It is unlawful for a seller, provider, or preneed agent to procure or accept a loan against any insurance contract used to fund a preneed contract.

5. Laws regulating insurance shall not apply to preneed contracts, but shall apply to any insurance or [single premium] annuity sold with a preneed contract; provided, however, the provisions of [this act] **sections 436.400 to 436.520** shall not apply to [single premium] annuities or insurance policies regulated by chapters 374, 375, and 376 used to fund preneed funeral agreements, contracts, or programs.

6. This section shall apply to all preneed contracts including those entered into before August 28, 2009.

7. For any insurance-funded preneed contract sold after August 28, 2009, the following shall apply:

- (1) The purchaser or beneficiary shall be the owner of the insurance policy purchased to fund a preneed contract; and
- (2) An insurance-funded preneed contract shall be valid and enforceable only if the seller or provider is named as the beneficiary or assignee of the life insurance policy funding the contract.

8. If the proceeds of the life insurance policy exceed the actual cost of the goods and services provided pursuant to the nonguaranteed preneed contract, any overage shall be paid to the estate of the beneficiary, or, if the beneficiary received public assistance, to the state of Missouri.

**436.455. JOINT ACCOUNT-FUNDED PRENEED CONTRACT REQUIREMENTS.** — 1. A joint account-funded preneed contract shall comply with sections 436.400 to 436.520 and the specific requirements of this section.

2. In lieu of a trust-funded or insurance-funded preneed contract, the seller and the purchaser may agree in writing that all funds paid by the purchaser or beneficiary for the preneed contract shall be deposited with a financial institution chartered and regulated by the federal or state government authorized to do business in Missouri in an account in the joint names and under the joint control of the seller and purchaser, beneficiary or party holding power of attorney over the beneficiary's estate, **or in an account titled in the beneficiary's name and payable on the beneficiary's death to the seller.** There shall be a separate joint account established for each preneed contract sold or arranged under this section. Funds shall only be withdrawn or paid from the account upon the signatures of both the seller and the purchaser or under a pay-on-death designation or as required to pay reasonable expenses of administering the account.

3. All consideration paid by the purchaser under a joint account-funded contract shall be deposited into a joint account as authorized by this section within ten days of receipt of payment by the seller.

4. The financial institution shall hold, invest, and reinvest funds deposited under this section in other accounts offered to depositors by the financial institutions as provided in the written agreement of the purchaser and the seller, provided the financial institution shall not invest or reinvest any funds deposited under this section in term life insurance or any investment that does not reasonably have the potential to gain income or increase in value.

5. Income generated by preneed funds deposited under this section shall be used to pay the reasonable expenses of administering the account as charged by the financial institution and the balance of the income shall be distributed or reinvested upon fulfillment of the contract, cancellation or transfer pursuant to the provisions of this chapter.

6. Within fifteen days after a provider [and a witness certify to the financial institution in writing] **delivers a copy of a certificate of performance to the seller, signed by the provider and the person authorized to make arrangements on behalf of the beneficiary, certifying** that the provider has furnished the final disposition, funeral, and burial services and facilities, and merchandise as required by the preneed contract, or has provided alternative funeral benefits for the beneficiary under special arrangements made with the purchaser, the [financial institution shall distribute the deposited funds to the seller if the certification has been approved by the purchaser] **seller shall take whatever steps are required by the financial institution to secure payment of the funds from the financial institution.** The seller shall pay the provider within ten days of receipt of funds.

7. Any seller, provider, or preneed agent shall not procure or accept a loan against any investment, or asset of, or belonging to a joint account. As of August 28, 2009, it shall be prohibited to use any existing preneed contract as collateral or security pledged for a loan, or take preneed funds of any existing preneed contract as a loan or for any purpose other than as authorized by this chapter.

**436.456. CANCELLATION OF CONTRACT, WHEN, PROCEDURE.** — At any time before final disposition, or before the funeral or burial services, facilities, or merchandise described in a preneed contract are furnished, the purchaser may cancel the contract, if designated as revocable, without cause. In order to cancel the contract the purchaser shall:

(1) In the case of a joint account-funded preneed contract, deliver written notice of the cancellation to the seller [and the financial institution]. Within fifteen days of receipt of notice of the cancellation, the [financial institution shall distribute all deposited funds to the purchaser] **seller shall take whatever steps may be required by the financial institution to obtain the funds from the financial institution. Upon receipt of the funds from the financial institution, the**

**seller shall distribute the principal to the purchaser.** Interest shall be distributed as provided in the agreement with the seller and purchaser;

(2) In the case of an insurance-funded preneed contract, deliver written notice of the cancellation to the seller. Within fifteen days of receipt of notice of the cancellation, the seller shall notify the purchaser that the cancellation of the contract shall not cancel any life insurance funding the contract and that insurance cancellation is required to be made in writing to the insurer;

(3) In the case of a trust-funded preneed contract, deliver written notice of the cancellation to the seller and trustee. Within fifteen days of receipt of notice of the cancellation, the trustee shall distribute one hundred percent of the trust property including any percentage of the total payments received on the trust-funded contract that have been withdrawn from the account under subsection 4 of section 436.430 but excluding the income, to the purchaser of the contract;

(4) In the case of a guaranteed installment payment contract where the beneficiary dies before all installments have been paid, the purchaser shall pay the seller the amount remaining due under the contract in order to receive the goods and services set out in the contract, otherwise the purchaser or their estate will receive full credit for all payments the purchaser has made towards the cost of the beneficiary's funeral at the provider current prices.

**516.098. SURVEYS OF LAND ERROR OR OMISSIONS — ACTION MUST BE BROUGHT WHEN.** — [1.] Except where fraud is involved, no action to recover damages for an error or omission in the survey of land, nor any action for contribution or indemnity for damages sustained on account of an error or omission may be brought against any person performing the survey more than [five years after the discovery of the error or omission] **ten years from the completion of the survey.**

[2. This section shall become effective January 1, 1990.]

**[335.206. NURSE TRAINING INCENTIVE FUND — GRANTS — AMOUNTS.** — 1. The nurse training incentive fund shall, upon appropriation, be used to provide incentive grants to eligible nursing programs which increase enrollment. Grants shall not be awarded to classes begun on or after July 1, 1996.

2. Grants shall be awarded to eligible nursing programs which increase enrollment pursuant to subsection 3 of this section. Eligible programs receiving grants provided under sections 335.200 to 335.209 shall monitor the enrollment of nontraditional students in their program and shall annually report to the board the number of nontraditional students enrolled therein. It shall be the intent of sections 335.200 to 335.209 to encourage the enrollment and graduation of nontraditional students in nursing education programs.

3. Incentive grants shall be awarded to professional nurse education programs, as follows:

(1) A grant of eight thousand dollars for each entering class of ten students by which the program increases its enrollment over the number of entering students admitted in the fall of 1989; and

(2) A grant of four hundred dollars for each student from each entering class cited in subdivision (1) of this section by which the program increases its number of graduates over the number of students graduated in the preceding year; or

(3) Beginning with the first graduating class of the classes which enter and are enrolled after August 28, 1990, a grant of four hundred dollars for each student by which the program increases its number of graduates over the number of graduates of the preceding year, if the program is not otherwise qualified to receive the grant provided pursuant to subdivision (1) of this section.]

**[335.209. ADMINISTRATIVE RULES — PROCEDURE.** — No rule or portion of a rule promulgated under the authority of sections 335.200 to 335.209 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.]

**SECTION B. EMERGENCY CLAUSE.** — Because immediate action is necessary to ensure the continuance of clinical trials in this state, the repeal and reenactment of section 338.330 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 338.330 of section A of this act shall be in full force and effect upon its passage and approval.

Approved July 7, 2011

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SB 351 [HCS SS SCS SB 351]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**Modifies provisions relating to adoption records.**

AN ACT to repeal section 453.121, RSMo, and to enact in lieu thereof one new section relating to adoption records.

SECTION

- A. Enacting clause.  
453.121. Adoption records, disclosure procedure — registry of biological parents and adopted adults.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Section 453.121, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 453.121, to read as follows:

**453.121. ADOPTION RECORDS, DISCLOSURE PROCEDURE — REGISTRY OF BIOLOGICAL PARENTS AND ADOPTED ADULTS.** — 1. As used in this section, unless the context clearly indicates otherwise, the following terms mean:

- (1) "Adopted adult", any adopted person who is eighteen years of age or over;
- (2) "Adopted child", any adopted person who is less than eighteen years of age;
- (3) "Adult sibling", any brother or sister of the whole or half blood who is eighteen years of age or over;
- (4) **"Biological parent", the natural and biological mother or father of the adopted child;**
- (5) "Identifying information", information which includes the name, date of birth, place of birth and last known address of the biological parent;
- (6) **"Lineal descendant", a legal descendant of a person as defined in section 472.010;**
- [(5)] (7) "Nonidentifying information", information concerning the physical description, nationality, religious background and medical history of the biological parent or sibling.

2. All papers, records, and information pertaining to an adoption whether part of any permanent record or file may be disclosed only in accordance with this section.

3. Nonidentifying information, if known, concerning undisclosed biological parents or siblings shall be furnished by the child-placing agency or the juvenile court to the adoptive parents,

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legal guardians [or], adopted adult **or the adopted adult's lineal descendants if the adopted adult is deceased**, upon written request therefor.

4. An adopted adult, **or the adopted adult's lineal descendants if the adopted adult is deceased**, may make a written request to the circuit court having original jurisdiction of such adoption to secure and disclose information identifying the adopted adult's biological parents. If the biological parents have consented to the release of identifying information under subsection [11] 9 of this section, the court shall disclose such identifying information to the adopted adult **or the adopted adult's lineal descendants if the adopted adult is deceased**. If the biological parents have not consented to the release of identifying information under subsection [11] 9 of this section, the court shall, within ten days of receipt of the request, notify in writing [the adoptive parents of such petitioner and] the child-placing agency or juvenile court personnel having access to the information requested of the request by the adopted adult **or the adopted adult's lineal descendants**.

5. Within three months after receiving notice of the request of the adopted adult, [the child-placing agency or juvenile court personnel shall notify the adoptive parents, if such adoptive parents are living and shall not make any attempt to notify the biological parents without prior written consent of such adoptive parents for adoptions instituted or completed prior to August 13, 1986, but may proceed if there is proof that the adoptive parents are deceased or incapacitated, as such term is defined in chapter 475. If the adoptive parents are living but are unwilling to give such written consent, the child-placing agency or the juvenile court personnel shall make a written report to the court stating that they were unable to notify the biological parent. If the adoptive parents are deceased or give written consent] **or the adopted adult's lineal descendants**, the child-placing agency or the juvenile court personnel shall make reasonable efforts to notify the biological parents of the request of the adopted adult **or the adopted adult's lineal descendants**. The child-placing agency or juvenile court personnel may charge actual costs to the adopted adult **or the adopted adult's lineal descendants** for the cost of making such search. All communications under this subsection are confidential. For purposes of this subsection, "notify" means a personal and confidential contact with the biological parent of the adopted adult, which initial contact shall [not be made by mail and shall] be made by an employee of the child-placing agency which processed the adoption, juvenile court personnel or some other licensed child-placing agency designated by the child-placing agency or juvenile court. Nothing in this section shall be construed to permit the disclosure of communications privileged pursuant to section 491.060. At the end of three months, the child-placing agency or juvenile court personnel shall file a report with the court stating that each biological parent that was located was given the following information:

- (1) The nature of the identifying information to which the agency has access;
- (2) The nature of any nonidentifying information requested;
- (3) The date of the request of the adopted adult **or the adopted adult's lineal descendants**;
- (4) The right of the biological parent to file an affidavit with the court stating that the identifying information should be disclosed;
- (5) The effect of a failure of the biological parent to file an affidavit stating that the identifying information should be disclosed.

6. If the child-placing agency or juvenile court personnel reports to the court that it has been unable to notify the biological parent within three months, the identifying information shall not be disclosed to the adopted adult **or the adopted adult's lineal descendants**. Additional requests for the same or substantially the same information may not be made to the court within one year from the end of the three-month period during which the attempted notification was made, unless good cause is shown and leave of court is granted.

7. If, within three months, the child-placing agency or juvenile court personnel reports to the court that it has notified the biological parent pursuant to subsection 5 of this section, the court shall receive the identifying information from the child-placing agency. If an affidavit duly executed by



a biological parent authorizing the release of information is filed with the court **or if a biological parent is found to be deceased**, the court shall disclose the identifying information as to that biological parent to the adopted adult **or the adopted adult's lineal descendants if the adopted adult is deceased**, provided that the other biological parent either:

- (1) Is unknown;
- (2) Is known but cannot be found and notified pursuant to section 5 of this act;
- (3) Is deceased; or
- (4) Has filed with the court an affidavit authorizing release of identifying information. If the biological parent fails or refuses to file an affidavit with the court authorizing the release of identifying information, then the identifying information shall not be released to the adopted adult. No additional request for the same or substantially the same information may be made within three years of the time the biological parent fails or refuses to file an affidavit authorizing the release of identifying information.

8. [If the biological parent is deceased but previously had filed an affidavit with the court stating that identifying information shall be disclosed, the information shall be forwarded to and released by the court to the adopted adult. If the biological parent is deceased and, at any time prior to his death, the biological parent did not file an affidavit with the court stating that the identifying information shall be disclosed, the adopted adult may petition the court for an order releasing the identifying information. The court shall grant the petition upon a finding that disclosure of the information is necessary for health-related purposes.

9.] Any adopted adult whose adoption was finalized in this state or whose biological parents had their parental rights terminated in this state may request the court to secure and disclose identifying information concerning an adult sibling [and upon a finding by the court that such information is necessary for urgent health-related purposes in the same manner as provided in this section]. Identifying information pertaining exclusively to the adult sibling, whether part of the permanent record of a file in the court or in an agency, shall be released only upon consent of that adult sibling.

[10.] 9. The central office of the children's division within the department of social services shall maintain a registry by which biological parents, adult siblings, and adoptive adults may indicate their desire to be contacted by each other. The division may request such identification for the registry as a party may possess to assure positive identifications. At the time of registry, a biological parent or adult sibling may consent in writing to the release of identifying information to an adopted adult. If such a consent has not been executed and the division believes that a match has occurred on the registry between biological parents or adult siblings and an adopted adult, an employee of the division shall make the confidential contact provided in subsection 5 of this section with the biological parents or adult siblings and with the adopted adult. If the division believes that a match has occurred on the registry between one biological parent or adult sibling and an adopted adult, an employee of the division shall make the confidential contact provided by subsection 5 of this section with the biological parent or adult sibling. The division shall then attempt to make such confidential contact with the other biological parent, and shall proceed thereafter to make such confidential contact with the adopted adult only if the division determines that the other biological parent meets one of the conditions specified in subsection 7 of this section. The biological parent, adult sibling, or adopted adult may refuse to go forward with any further contact between the parties when contacted by the division.

[11.] **10.** The provisions of this section, except as provided in subsection 5 of this section governing the release of identifying and nonidentifying adoptive information apply to adoptions completed before and after August 13, 1986.

Approved July 5, 2011

**SB 356 [CCS#2 HCS SCS SB 356]**

**EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

**Modifies provisions pertaining to grain dealers and grain warehouses.**

AN ACT to repeal sections 21.801, 144.010, 144.020, 144.030, 144.070, 263.190, 263.200, 263.205, 263.220, 263.230, 263.232, 263.240, 263.241, 263.450, 268.121, 275.360, 276.401, 276.416, 276.421, 276.436, 276.441, 276.446, and 411.280, RSMo, and to enact in lieu thereof eighteen new sections relating to agriculture, with penalty provisions and an emergency clause for a certain section.

**SECTION**

- A. Enacting clause.
- 21.801. Committee created, members, meetings — report, content — subcommittee created — expiration.
- 143.1014. Puppy protection trust fund, refund donation to — fund created, use of moneys — director's duties — sunset provision.
- 144.010. Definitions.
- 144.020. Rate of tax — tickets, notice of sales tax — lease or rental of personal property exempt from tax, when.
- 144.030. Exemptions from state and local sales and use taxes.
- 144.070. Purchase or lease of motor vehicles, trailers, boats and outboard motors, tax on — option granted lessor — application to act as leasing company.
- 262.815. Citation of law, purpose — trust created, objectives — advisory board created, members, duties, terms — fund created — rulemaking authority.
- 263.190. Owners to control noxious weeds — notice procedure — penalty — sale of noxious weeds prohibited.
- 263.200. County commission duties to control noxious weeds, official immunity, landowner duty of care — special tax for cost, collection — provisions applicable to certain political subdivisions.
- 263.220. Duty of prosecuting attorney.
- 263.240. Penalty for violation.
- 268.121. Recorded brand list a public record, furnished to general public at cost.
- 275.360. Refund of fees, request for.
- 276.401. Title, and scope of the law — definitions.
- 276.421. Financial statement to accompany application, how prepared — false statement, penalty — minimum net worth and assets required.
- 276.436. Amount of bond — director to establish by rule — formula — minimum and maximum — additional bond because of low net worth or other circumstances — failure to maintain, effect.
- 276.441. Dealer may request use of minimum bond, procedure.
- 411.280. Warehouseman's net worth, requirements — deficiency, how corrected.
- 263.205. Multiflora rose a noxious weed, exceptions — counties may establish programs and funds to control noxious weeds.
- 263.230. Control of spread of bindweed, by whom.
- 263.232. Eradication and control of the spread of teasel, kudzu vine, and spotted knapweed.
- 263.241. Plant, purple loosestrife (*Lythrum salicaria*) declared a noxious weed — distribution for control experiments only, permit required, violations, penalty.
- 263.450. Noxious weed, defined — designation of noxious weed by director of department of agriculture.
- 276.416. Application to list dollar amounts of grain purchased or to be purchased.
- 276.446. Small dealers may have lower minimum bond.
- B. Emergency clause.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 21.801, 144.010, 144.020, 144.030, 144.070, 263.190, 263.200, 263.205, 263.220, 263.230, 263.232, 263.240, 263.241, 263.450, 268.121, 275.360, 276.401, 276.416, 276.421, 276.436, 276.441, 276.446, and 411.280, RSMo, are repealed and eighteen new sections enacted in lieu thereof, to be known as sections 21.801, 143.1014, 144.010, 144.020, 144.030, 144.070, 262.815, 263.190, 263.200, 263.220, 263.240, 268.121, 275.360, 276.401, 276.421, 276.436, 276.441, and 411.280, to read as follows:

**21.801. COMMITTEE CREATED, MEMBERS, MEETINGS — REPORT, CONTENT — SUBCOMMITTEE CREATED — EXPIRATION.** — 1. There is hereby established a joint committee of the general assembly, which shall be known as the "Joint Committee on Urban [Farming" for the period between the second regular session of the ninety-fifth general assembly and first regular session of the ninety-sixth general assembly] **Agriculture"**.

2. The joint committee shall be composed of ten members. Five members shall be from the senate, with three members appointed by the president pro tem of the senate and two members appointed by the minority leader of the senate. Five members shall be from the house of representatives, with three members appointed by the speaker of the house of representatives and two members appointed by the minority leader of the house of representatives. All members of the Missouri general assembly not appointed in this subsection may be nonvoting, ex officio members of the joint committee. A majority of the appointed members of the joint committee shall constitute a quorum.

3. The joint committee shall meet within thirty days after it becomes effective and organize by selecting a chairperson and a vice chairperson, one of whom shall be a member of the senate and the other a member of the house of representatives. The joint committee may meet at locations other than Jefferson City when the committee deems it necessary.

4. The committee shall prepare a final report together with its recommendations for any legislative action deemed necessary for submission to the speaker of the house of representatives, president pro tem of the senate, and the governor by December 31, [2010] **2012**. The report shall study and make recommendations regarding the impact of urban farm cooperatives, vertical farming, and sustainable living communities in this state and shall examine the following:

- (1) Trends in urban farming, including vertical farming, urban farm cooperatives, and sustainable living communities;
- (2) Existing services, resources, and capacity for such urban farming;
- (3) The impact on communities and populations affected; and
- (4) Any needed state legislation, policies, or regulations.

5. The committee shall hold a minimum of one meeting at three urban regions in the state of Missouri to seek public input. The committee may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the committee considers advisable to carry out the provisions of this section.

6. The joint committee may solicit input and information necessary to fulfill its obligations from the general public, any state department, state agency, political subdivision of this state, or anyone else it deems advisable.

7. (1) The joint committee shall establish a subcommittee to be known as the "Urban Farming Advisory Subcommittee" to study, analyze, and provide background information, recommendations, and findings in preparation of each of the public hearings called by the joint committee. The subcommittee may also review draft recommendations of the joint committee, if requested. The subcommittee will meet as often as necessary to fulfill the requirements and time frames set by the joint committee.

(2) The subcommittee shall consist of twelve members, as follows:

- (a) Four members shall include the directors of the following departments, or their designees:
  - a. Agriculture, who shall serve as chair of the subcommittee;
  - b. Economic development;

c. Health and senior services; and

d. Natural resources; and

(b) The chair shall select eight additional members, subject to approval by a majority of the joint committee, who shall have experience in or represent organizations associated with at least one of the following areas:

a. Sustainable energy;

b. Farm policy;

c. Urban botanical gardening;

d. Sustainable agriculture;

e. Urban farming or community gardening;

f. Vertical farming;

g. Agriculture policy or advocacy; and

h. Urban development.

8. Members of the committee and subcommittee shall serve without compensation but may be reimbursed for necessary expenses pertaining to the duties of the committee.

9. The staffs of senate research, the joint committee on legislative research, and house research may provide such legal, research, clerical, technical, and bill drafting services as the joint committee may require in the performance of its duties.

10. Any actual and necessary expenses of the joint committee, its members, and any staff assigned to the joint committee incurred by the joint committee shall be paid by the joint contingent fund.

11. [This] **The** provisions of this section shall expire on January 1, [2011] **2013**.

**143.1014. PUPPY PROTECTION TRUST FUND, REFUND DONATION TO — FUND CREATED, USE OF MONEYS — DIRECTOR'S DUTIES — SUNSET PROVISION. — 1. For all taxable years beginning on or after January 1, 2011, each individual or corporation entitled to a tax refund in an amount sufficient to make a designation under this section may designate that one dollar or any amount in excess of one dollar on a single return, and two dollars or any amount in excess of two dollars on a combined return, of the refund due be credited to the puppy protection trust fund. If any individual or corporation that is not entitled to a tax refund in an amount sufficient to make a designation under this section wishes to make a contribution to the fund, such individual or corporation may, by separate check, draft, or other negotiable instrument, send in with the payment of taxes, or may send in separately, that amount the individual or corporation wishes to contribute. Such amounts shall be clearly designated for the fund.**

**2. There is hereby created in the state treasury the "Puppy Protection Trust Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund and, upon appropriation, money in the fund shall be used solely for the state department of agriculture's administration of section 273.345. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund. All moneys credited to the trust fund shall be considered nonstate funds under section 15, article IV, Constitution of Missouri. The treasurer shall distribute all moneys deposited in the fund at times the treasurer deems appropriate to the department of agriculture.**

**3. The director of revenue shall deposit at least monthly all contributions designated by individuals under this section to the state treasurer for deposit to the fund. The director of revenue shall deposit at least monthly all contributions designated by the**

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corporations under this section, less an amount sufficient to cover the costs of collection and handling by the department of revenue, to the state treasury for deposit to the fund. A contribution designated under this section shall only be deposited in the fund after all other claims against the refund from which such contribution is to be made have been satisfied.

**4. Under section 23.253 of the Missouri sunset act:**

(1) The provisions of the new program authorized under this section shall automatically sunset on December thirty-first six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset on December thirty-first twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

**144.010. DEFINITIONS.** — 1. The following words, terms, and phrases when used in sections 144.010 to 144.525 have the meanings ascribed to them in this section, except when the context indicates a different meaning:

(1) "Admission" includes seats and tables, reserved or otherwise, and other similar accommodations and charges made therefor and amount paid for admission, exclusive of any admission tax imposed by the federal government or by sections 144.010 to 144.525;

(2) "Business" includes any activity engaged in by any person, or caused to be engaged in by him, with the object of gain, benefit or advantage, either direct or indirect, and the classification of which business is of such character as to be subject to the terms of sections 144.010 to 144.525. The isolated or occasional sale of tangible personal property, service, substance, or thing, by a person not engaged in such business, does not constitute engaging in business within the meaning of sections 144.010 to 144.525 unless the total amount of the gross receipts from such sales, exclusive of receipts from the sale of tangible personal property by persons which property is sold in the course of the partial or complete liquidation of a household, farm or nonbusiness enterprise, exceeds three thousand dollars in any calendar year. The provisions of this subdivision shall not be construed to make any sale of property which is exempt from sales tax or use tax on June 1, 1977, subject to that tax thereafter;

(3) **"Captive wildlife", includes but is not limited to exotic partridges, gray partridge, northern bobwhite quail, ring-necked pheasant, captive waterfowl, captive white-tailed deer, captive elk, and captive furbearers held under permit issued by the Missouri department of conservation for hunting purposes. The provisions of this subdivision shall not apply to sales tax on a harvested animal;**

(4) "Gross receipts", except as provided in section 144.012, means the total amount of the sale price of the sales at retail including any services other than charges incident to the extension of credit that are a part of such sales made by the businesses herein referred to, capable of being valued in money, whether received in money or otherwise; except that, the term "gross receipts" shall not include the sale price of property returned by customers when the full sale price thereof is refunded either in cash or by credit. In determining any tax due under sections 144.010 to 144.525 on the gross receipts, charges incident to the extension of credit shall be specifically exempted. For the purposes of sections 144.010 to 144.525 the total amount of the sale price above mentioned shall be deemed to be the amount received. It shall also include the lease or rental consideration where the right to continuous possession or use of any article of tangible personal property is granted under a lease or contract and such transfer of possession would be taxable if outright sale were made and, in such cases, the same shall be taxable as if outright sale were made and considered as a sale of such article, and the tax shall be computed and paid by the lessee upon the rentals paid;

[(4)] (5) "Livestock", cattle, calves, sheep, swine, ratite birds, including but not limited to, ostrich and emu, aquatic products as defined in section 277.024, llamas, alpaca, buffalo, elk documented as obtained from a legal source and not from the wild, goats, horses, other equine, or rabbits raised in confinement for human consumption;

[(5)] (6) "Motor vehicle leasing company" shall be a company obtaining a permit from the director of revenue to operate as a motor vehicle leasing company. Not all persons renting or leasing trailers or motor vehicles need to obtain such a permit; however, no person failing to obtain such a permit may avail itself of the optional tax provisions of subsection 5 of section 144.070, as hereinafter provided;

[(6)] (7) "Person" includes any individual, firm, copartnership, joint adventure, association, corporation, municipal or private, and whether organized for profit or not, state, county, political subdivision, state department, commission, board, bureau or agency, except the state transportation department, estate, trust, business trust, receiver or trustee appointed by the state or federal court, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular number;

[(7)] (8) "Purchaser" means a person who purchases tangible personal property or to whom are rendered services, receipts from which are taxable under sections 144.010 to 144.525;

[(8)] (9) "Research or experimentation activities" are the development of an experimental or pilot model, plant process, formula, invention or similar property, and the improvement of existing property of such type. Research or experimentation activities do not include activities such as ordinary testing or inspection of materials or products for quality control, efficiency surveys, advertising promotions or research in connection with literary, historical or similar projects;

[(9)] (10) "Sale" or "sales" includes installment and credit sales, and the exchange of properties as well as the sale thereof for money, every closed transaction constituting a sale, and means any transfer, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for valuable consideration and the rendering, furnishing or selling for a valuable consideration any of the substances, things and services herein designated and defined as taxable under the terms of sections 144.010 to 144.525;

[(10)] (11) "Sale at retail" means any transfer made by any person engaged in business as defined herein of the ownership of, or title to, tangible personal property to the purchaser, for use or consumption and not for resale in any form as tangible personal property, for a valuable consideration; except that, for the purposes of sections 144.010 to 144.525 and the tax imposed thereby: (i) purchases of tangible personal property made by duly licensed physicians, dentists, optometrists and veterinarians and used in the practice of their professions shall be deemed to be purchases for use or consumption and not for resale; and (ii) the selling of computer printouts, computer output or microfilm or microfiche and computer-assisted photo compositions to a purchaser to enable the purchaser to obtain for his or her own use the desired information contained in such computer printouts, computer output on microfilm or microfiche and computer-assisted photo compositions shall be considered as the sale of a service and not as the sale of tangible personal property. Where necessary to conform to the context of sections 144.010 to 144.525 and the tax imposed thereby, the term "sale at retail" shall be construed to embrace:

(a) Sales of admission tickets, cash admissions, charges and fees to or in places of amusement, entertainment and recreation, games and athletic events;

(b) Sales of electricity, electrical current, water and gas, natural or artificial, to domestic, commercial or industrial consumers;

(c) Sales of local and long distance telecommunications service to telecommunications subscribers and to others through equipment of telecommunications subscribers for the transmission of messages and conversations, and the sale, rental or leasing of all equipment or services pertaining or incidental thereto;

(d) Sales of service for transmission of messages by telegraph companies;

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(e) Sales or charges for all rooms, meals and drinks furnished at any hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist camp, tourist cabin, or other place in which rooms, meals or drinks are regularly served to the public;

(f) Sales of tickets by every person operating a railroad, sleeping car, dining car, express car, boat, airplane, and such buses and trucks as are licensed by the division of motor carrier and railroad safety of the department of economic development of Missouri, engaged in the transportation of persons for hire;

[(11)] (12) "Seller" means a person selling or furnishing tangible personal property or rendering services, on the receipts from which a tax is imposed pursuant to section 144.020;

[(12)] (13) The noun "tax" means either the tax payable by the purchaser of a commodity or service subject to tax, or the aggregate amount of taxes due from the vendor of such commodities or services during the period for which he or she is required to report his or her collections, as the context may require;

[(13)] (14) "Telecommunications service", for the purpose of this chapter, the transmission of information by wire, radio, optical cable, coaxial cable, electronic impulses, or other similar means. As used in this definition, "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols. Telecommunications service does not include the following if such services are separately stated on the customer's bill or on records of the seller maintained in the ordinary course of business:

(a) Access to the internet, access to interactive computer services or electronic publishing services, except the amount paid for the telecommunications service used to provide such access;

(b) Answering services and one-way paging services;

(c) Private mobile radio services which are not two-way commercial mobile radio services such as wireless telephone, personal communications services or enhanced specialized mobile radio services as defined pursuant to federal law; or

(d) Cable or satellite television or music services; and

[(14)] (15) "Product which is intended to be sold ultimately for final use or consumption" means tangible personal property, or any service that is subject to state or local sales or use taxes, or any tax that is substantially equivalent thereto, in this state or any other state.

2. For purposes of the taxes imposed under sections 144.010 to 144.525, and any other provisions of law pertaining to sales or use taxes which incorporate the provisions of sections 144.010 to 144.525 by reference, the term "manufactured homes" shall have the same meaning given it in section 700.010.

3. Sections 144.010 to 144.525 may be known and quoted as the "Sales Tax Law".

**144.020. RATE OF TAX — TICKETS, NOTICE OF SALES TAX — LEASE OR RENTAL OF PERSONAL PROPERTY EXEMPT FROM TAX, WHEN. —** 1. A tax is hereby levied and imposed upon all sellers for the privilege of engaging in the business of selling tangible personal property or rendering taxable service at retail in this state. The rate of tax shall be as follows:

(1) Upon every retail sale in this state of tangible personal property, including but not limited to motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats and outboard motors, a tax equivalent to four percent of the purchase price paid or charged, or in case such sale involves the exchange of property, a tax equivalent to four percent of the consideration paid or charged, including the fair market value of the property exchanged at the time and place of the exchange, except as otherwise provided in section 144.025;

(2) A tax equivalent to four percent of the amount paid for admission and seating accommodations, or fees paid to, or in any place of amusement, entertainment or recreation, games and athletic events;

(3) A tax equivalent to four percent of the basic rate paid or charged on all sales of electricity or electrical current, water and gas, natural or artificial, to domestic, commercial or industrial consumers;

(4) A tax equivalent to four percent on the basic rate paid or charged on all sales of local and long distance telecommunications service to telecommunications subscribers and to others through equipment of telecommunications subscribers for the transmission of messages and conversations and upon the sale, rental or leasing of all equipment or services pertaining or incidental thereto; except that, the payment made by telecommunications subscribers or others, pursuant to section 144.060, and any amounts paid for access to the internet or interactive computer services shall not be considered as amounts paid for telecommunications services;

(5) A tax equivalent to four percent of the basic rate paid or charged for all sales of services for transmission of messages of telegraph companies;

(6) A tax equivalent to four percent on the amount of sales or charges for all rooms, meals and drinks furnished at any hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp or other place in which rooms, meals or drinks are regularly served to the public;

(7) A tax equivalent to four percent of the amount paid or charged for intrastate tickets by every person operating a railroad, sleeping car, dining car, express car, boat, airplane and such buses and trucks as are licensed by the division of motor carrier and railroad safety of the department of economic development of Missouri, engaged in the transportation of persons for hire;

(8) A tax equivalent to four percent of the amount paid or charged for rental or lease of tangible personal property, provided that if the lessor or renter of any tangible personal property had previously purchased the property under the conditions of "sale at retail" [as defined in subdivision (8) of section 144.010] or leased or rented the property and the tax was paid at the time of purchase, lease or rental, the lessor, sublessor, renter or subrenter shall not apply or collect the tax on the subsequent lease, sublease, rental or subrental receipts from that property. The purchase, rental or lease of motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats, and outboard motors shall be taxed and the tax paid as provided in this section and section 144.070. In no event shall the rental or lease of boats and outboard motors be considered a sale, charge, or fee to, for or in places of amusement, entertainment or recreation nor shall any such rental or lease be subject to any tax imposed to, for, or in such places of amusement, entertainment or recreation. Rental and leased boats or outboard motors shall be taxed under the provisions of the sales tax laws as provided under such laws for motor vehicles and trailers. Tangible personal property which is exempt from the sales or use tax under section 144.030 upon a sale thereof is likewise exempt from the sales or use tax upon the lease or rental thereof.

2. All tickets sold which are sold under the provisions of sections 144.010 to 144.525 which are subject to the sales tax shall have printed, stamped or otherwise endorsed thereon, the words "This ticket is subject to a sales tax."

**144.030. EXEMPTIONS FROM STATE AND LOCAL SALES AND USE TAXES.** — 1. There is hereby specifically exempted from the provisions of sections 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525 such retail sales as may be made in commerce between this state and any other state of the United States, or between this state and any foreign country, and any retail sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or laws of the United States of America, and such retail sales of tangible personal property which the general assembly of the state of Missouri is prohibited from taxing or further taxing by the constitution of this state.

2. There are also specifically exempted from the provisions of the local sales tax law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.761 and from the computation of the tax levied, assessed or payable pursuant to the local sales tax law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.745:



(1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of such excise tax is refunded pursuant to section 142.824; or upon the sale at retail of fuel to be consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be converted into foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone or fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested will be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at retail; economic poisons registered pursuant to the provisions of the Missouri pesticide registration law (sections 281.220 to 281.310) which are to be used in connection with the growth or production of crops, fruit trees or orchards applied before, during, or after planting, the crop of which when harvested will be sold at retail or will be converted into foodstuffs which are to be sold ultimately in processed form at retail;

(2) Materials, manufactured goods, machinery and parts which when used in manufacturing, processing, compounding, mining, producing or fabricating become a component part or ingredient of the new personal property resulting from such manufacturing, processing, compounding, mining, producing or fabricating and which new personal property is intended to be sold ultimately for final use or consumption; and materials, including without limitation, gases and manufactured goods, including without limitation slagging materials and firebrick, which are ultimately consumed in the manufacturing process by blending, reacting or interacting with or by becoming, in whole or in part, component parts or ingredients of steel products intended to be sold ultimately for final use or consumption;

(3) Materials, replacement parts and equipment purchased for use directly upon, and for the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling stock or aircraft engaged as common carriers of persons or property;

(4) Replacement machinery, equipment, and parts and the materials and supplies solely required for the installation or construction of such replacement machinery, equipment, and parts, used directly in manufacturing, mining, fabricating or producing a product which is intended to be sold ultimately for final use or consumption; and machinery and equipment, and the materials and supplies required solely for the operation, installation or construction of such machinery and equipment, purchased and used to establish new, or to replace or expand existing, material recovery processing plants in this state. For the purposes of this subdivision, a "material recovery processing plant" means a facility that has as its primary purpose the recovery of materials into a useable product or a different form which is used in producing a new product and shall include a facility or equipment which are used exclusively for the collection of recovered materials for delivery to a material recovery processing plant but shall not include motor vehicles used on highways. For purposes of this section, the terms motor vehicle and highway shall have the same meaning pursuant to section 301.010. Material recovery is not the reuse of materials within a manufacturing process or the use of a product previously recovered. The material recovery processing plant shall qualify under the provisions of this section regardless of ownership of the material being recovered;

(5) Machinery and equipment, and parts and the materials and supplies solely required for the installation or construction of such machinery and equipment, purchased and used to establish new or to expand existing manufacturing, mining or fabricating plants in the state if such machinery and equipment is used directly in manufacturing, mining or fabricating a product which is intended to be sold ultimately for final use or consumption;

(6) Tangible personal property which is used exclusively in the manufacturing, processing, modification or assembling of products sold to the United States government or to any agency of the United States government;

(7) Animals or poultry used for breeding or feeding purposes, **or captive wildlife;**

(8) Newsprint, ink, computers, photosensitive paper and film, toner, printing plates and other machinery, equipment, replacement parts and supplies used in producing newspapers published for dissemination of news to the general public;

(9) The rentals of films, records or any type of sound or picture transcriptions for public commercial display;

(10) Pumping machinery and equipment used to propel products delivered by pipelines engaged as common carriers;

(11) Railroad rolling stock for use in transporting persons or property in interstate commerce and motor vehicles licensed for a gross weight of twenty-four thousand pounds or more or trailers used by common carriers, as defined in section 390.020, in the transportation of persons or property;

(12) Electrical energy used in the actual primary manufacture, processing, compounding, mining or producing of a product, or electrical energy used in the actual secondary processing or fabricating of the product, or a material recovery processing plant as defined in subdivision (4) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical energy so used exceeds ten percent of the total cost of production, either primary or secondary, exclusive of the cost of electrical energy so used or if the raw materials used in such processing contain at least twenty-five percent recovered materials as defined in section 260.200. There shall be a rebuttable presumption that the raw materials used in the primary manufacture of automobiles contain at least twenty-five percent recovered materials. For purposes of this subdivision, "processing" means any mode of treatment, act or series of acts performed upon materials to transform and reduce them to a different state or thing, including treatment necessary to maintain or preserve such processing by the producer at the production facility;

(13) Anodes which are used or consumed in manufacturing, processing, compounding, mining, producing or fabricating and which have a useful life of less than one year;

(14) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring air pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices;

(15) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring water pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices;

(16) Tangible personal property purchased by a rural water district;

(17) All amounts paid or charged for admission or participation or other fees paid by or other charges to individuals in or for any place of amusement, entertainment or recreation, games or athletic events, including museums, fairs, zoos and planetariums, owned or operated by a municipality or other political subdivision where all the proceeds derived therefrom benefit the municipality or other political subdivision and do not inure to any private person, firm, or corporation;

(18) All sales of insulin and prosthetic or orthopedic devices as defined on January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of 1965, including the items specified in Section 1862(a)(12) of that act, and also specifically including hearing aids and hearing aid supplies and all sales of drugs which may be legally dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to administer those items, including samples and materials used to manufacture samples which may be dispensed by a practitioner authorized to dispense such samples and all sales of medical oxygen, home respiratory equipment and accessories, hospital beds and accessories and ambulatory aids, all sales of manual and powered wheelchairs, stairway lifts, Braille writers, electronic Braille equipment and, if purchased by or on behalf of a person with one or more physical or mental disabilities to enable them to function more independently, all sales of scooters, reading machines, electronic print

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enlargers and magnifiers, electronic alternative and augmentative communication devices, and items used solely to modify motor vehicles to permit the use of such motor vehicles by individuals with disabilities or sales of over-the-counter or nonprescription drugs to individuals with disabilities;

(19) All sales made by or to religious and charitable organizations and institutions in their religious, charitable or educational functions and activities and all sales made by or to all elementary and secondary schools operated at public expense in their educational functions and activities;

(20) All sales of aircraft to common carriers for storage or for use in interstate commerce and all sales made by or to not-for-profit civic, social, service or fraternal organizations, including fraternal organizations which have been declared tax-exempt organizations pursuant to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, in their civic or charitable functions and activities and all sales made to eleemosynary and penal institutions and industries of the state, and all sales made to any private not-for-profit institution of higher education not otherwise excluded pursuant to subdivision (19) of this subsection or any institution of higher education supported by public funds, and all sales made to a state relief agency in the exercise of relief functions and activities;

(21) All ticket sales made by benevolent, scientific and educational associations which are formed to foster, encourage, and promote progress and improvement in the science of agriculture and in the raising and breeding of animals, and by nonprofit summer theater organizations if such organizations are exempt from federal tax pursuant to the provisions of the Internal Revenue Code and all admission charges and entry fees to the Missouri state fair or any fair conducted by a county agricultural and mechanical society organized and operated pursuant to sections 262.290 to 262.530;

(22) All sales made to any private not-for-profit elementary or secondary school, all sales of feed additives, medications or vaccines administered to livestock or poultry in the production of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber, all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying agricultural crops, natural gas used in the primary manufacture or processing of fuel ethanol as defined in section 142.028, natural gas, propane, and electricity used by an eligible new generation cooperative or an eligible new generation processing entity as defined in section 348.432, and all sales of farm machinery and equipment, other than airplanes, motor vehicles and trailers, **and any freight charges on any exempt item.** As used in this subdivision, the term "feed additives" means tangible personal property which, when mixed with feed for livestock or poultry, is to be used in the feeding of livestock or poultry. As used in this subdivision, the term "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and other assorted pesticide carriers used to improve or enhance the effect of a pesticide and the foam used to mark the application of pesticides and herbicides for the production of crops, livestock or poultry. As used in this subdivision, the term "farm machinery and equipment" means new or used farm tractors and such other new or used farm machinery and equipment and repair or replacement parts thereon **and any accessories for and upgrades to such farm machinery and equipment, rotary mowers used exclusively for agricultural purposes,** and supplies and lubricants used exclusively, solely, and directly for producing crops, raising and feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk for ultimate sale at retail, including field drain tile, and one-half of each purchaser's purchase of diesel fuel therefor which is:

- (a) Used exclusively for agricultural purposes;
- (b) Used on land owned or leased for the purpose of producing farm products; and
- (c) Used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold ultimately in processed form at retail;

(23) Except as otherwise provided in section 144.032, all sales of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil for domestic use and in any city not within a county, all sales of metered or unmetered water service for domestic use:

(a) "Domestic use" means that portion of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil, and in any city not within a county, metered or unmetered water service, which an individual occupant of a residential premises uses for nonbusiness, noncommercial or nonindustrial purposes. Utility service through a single or master meter for residential apartments or condominiums, including service for common areas and facilities and vacant units, shall be deemed to be for domestic use. Each seller shall establish and maintain a system whereby individual purchases are determined as exempt or nonexempt;

(b) Regulated utility sellers shall determine whether individual purchases are exempt or nonexempt based upon the seller's utility service rate classifications as contained in tariffs on file with and approved by the Missouri public service commission. Sales and purchases made pursuant to the rate classification "residential" and sales to and purchases made by or on behalf of the occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, shall be considered as sales made for domestic use and such sales shall be exempt from sales tax. Sellers shall charge sales tax upon the entire amount of purchases classified as nondomestic use. The seller's utility service rate classification and the provision of service thereunder shall be conclusive as to whether or not the utility must charge sales tax;

(c) Each person making domestic use purchases of services or property and who uses any portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day of the fourth month following the year of purchase, and without assessment, notice or demand, file a return and pay sales tax on that portion of nondomestic purchases. Each person making nondomestic purchases of services or property and who uses any portion of the services or property so purchased for domestic use, and each person making domestic purchases on behalf of occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, under a nonresidential utility service rate classification may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for credit or refund to the director of revenue and the director shall give credit or make refund for taxes paid on the domestic use portion of the purchase. The person making such purchases on behalf of occupants of residential apartments or condominiums shall have standing to apply to the director of revenue for such credit or refund;

(24) All sales of handicraft items made by the seller or the seller's spouse if the seller or the seller's spouse is at least sixty-five years of age, and if the total gross proceeds from such sales do not constitute a majority of the annual gross income of the seller;

(25) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of revenue shall promulgate rules pursuant to chapter 536 to eliminate all state and local sales taxes on such excise taxes;

(26) Sales of fuel consumed or used in the operation of ships, barges, or waterborne vessels which are used primarily in or for the transportation of property or cargo, or the conveyance of persons for hire, on navigable rivers bordering on or located in part in this state, if such fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such river;

(27) All sales made to an interstate compact agency created pursuant to sections 70.370 to 70.441 or sections 238.010 to 238.100 in the exercise of the functions and activities of such agency as provided pursuant to the compact;

(28) Computers, computer software and computer security systems purchased for use by architectural or engineering firms headquartered in this state. For the purposes of this subdivision,

"headquartered in this state" means the office for the administrative management of at least four integrated facilities operated by the taxpayer is located in the state of Missouri;

(29) All livestock sales when either the seller is engaged in the growing, producing or feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering or leasing of such livestock;

(30) All sales of barges which are to be used primarily in the transportation of property or cargo on interstate waterways;

(31) Electrical energy or gas, whether natural, artificial or propane, water, or other utilities which are ultimately consumed in connection with the manufacturing of cellular glass products or in any material recovery processing plant as defined in subdivision (4) of this subsection;

(32) Notwithstanding other provisions of law to the contrary, all sales of pesticides or herbicides used in the production of crops, aquaculture, livestock or poultry;

(33) Tangible personal property and utilities purchased for use or consumption directly or exclusively in the research and development of agricultural/biotechnology and plant genomics products and prescription pharmaceuticals consumed by humans or animals;

(34) All sales of grain bins for storage of grain for resale;

(35) All sales of feed which are developed for and used in the feeding of pets owned by a commercial breeder when such sales are made to a commercial breeder, as defined in section 273.325, and licensed pursuant to sections 273.325 to 273.357;

(36) All purchases by a contractor on behalf of an entity located in another state, provided that the entity is authorized to issue a certificate of exemption for purchases to a contractor under the provisions of that state's laws. For purposes of this subdivision, the term "certificate of exemption" shall mean any document evidencing that the entity is exempt from sales and use taxes on purchases pursuant to the laws of the state in which the entity is located. Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's exemption certificate as evidence of the exemption. If the exemption certificate issued by the exempt entity to the contractor is later determined by the director of revenue to be invalid for any reason and the contractor has accepted the certificate in good faith, neither the contractor or the exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result of use of the invalid exemption certificate. Materials shall be exempt from all state and local sales and use taxes when purchased by a contractor for the purpose of fabricating tangible personal property which is used in fulfilling a contract for the purpose of constructing, repairing or remodeling facilities for the following:

(a) An exempt entity located in this state, if the entity is one of those entities able to issue project exemption certificates in accordance with the provisions of section 144.062; or

(b) An exempt entity located outside the state if the exempt entity is authorized to issue an exemption certificate to contractors in accordance with the provisions of that state's law and the applicable provisions of this section;

(37) All sales or other transfers of tangible personal property to a lessor who leases the property under a lease of one year or longer executed or in effect at the time of the sale or other transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441 or sections 238.010 to 238.100;

(38) Sales of tickets to any collegiate athletic championship event that is held in a facility owned or operated by a governmental authority or commission, a quasi-governmental agency, a state university or college or by the state or any political subdivision thereof, including a municipality, and that is played on a neutral site and may reasonably be played at a site located outside the state of Missouri. For purposes of this subdivision, "neutral site" means any site that is not located on the campus of a conference member institution participating in the event;

(39) All purchases by a sports complex authority created under section 64.920, and all sales of utilities by such authority at the authority's cost that are consumed in connection with the operation of a sports complex leased to a professional sports team;

(40) Beginning January 1, 2009, but not after January 1, 2015, materials, replacement parts, and equipment purchased for use directly upon, and for the modification, replacement, repair, and maintenance of aircraft, aircraft power plants, and aircraft accessories;

(41) Sales of sporting clays, wobble, skeet, and trap targets to any shooting range or similar places of business for use in the normal course of business and money received by a shooting range or similar places of business from patrons and held by a shooting range or similar place of business for redistribution to patrons at the conclusion of a shooting event.

**144.070. PURCHASE OR LEASE OF MOTOR VEHICLES, TRAILERS, BOATS AND OUTBOARD MOTORS, TAX ON — OPTION GRANTED LESSOR — APPLICATION TO ACT AS LEASING COMPANY. —** 1. At the time the owner of any new or used motor vehicle, trailer, boat, or outboard motor which was acquired in a transaction subject to sales tax under the Missouri sales tax law makes application to the director of revenue for an official certificate of title and the registration of the motor vehicle, trailer, boat, or outboard motor as otherwise provided by law, the owner shall present to the director of revenue evidence satisfactory to the director of revenue showing the purchase price exclusive of any charge incident to the extension of credit paid by or charged to the applicant in the acquisition of the motor vehicle, trailer, boat, or outboard motor, or that no sales tax was incurred in its acquisition, and if sales tax was incurred in its acquisition, the applicant shall pay or cause to be paid to the director of revenue the sales tax provided by the Missouri sales tax law in addition to the registration fees now or hereafter required according to law, and the director of revenue shall not issue a certificate of title for any new or used motor vehicle, trailer, boat, or outboard motor subject to sales tax as provided in the Missouri sales tax law until the tax levied for the sale of the same under sections 144.010 to 144.510 has been paid as provided in this section or is registered under the provisions of subsection 5 of this section.

2. As used in subsection 1 of this section, the term "purchase price" shall mean the total amount of the contract price agreed upon between the seller and the applicant in the acquisition of the motor vehicle, trailer, boat, or outboard motor, regardless of the medium of payment therefor.

3. In the event that the purchase price is unknown or undisclosed, or that the evidence thereof is not satisfactory to the director of revenue, the same shall be fixed by appraisement by the director.

4. The director of the department of revenue shall endorse upon the official certificate of title issued by the director upon such application an entry showing that such sales tax has been paid or that the motor vehicle, trailer, boat, or outboard motor represented by such certificate is exempt from sales tax and state the ground for such exemption.

5. Any person, company, or corporation engaged in the business of renting or leasing motor vehicles, trailers, boats, or outboard motors, which are to be used exclusively for rental or lease purposes, and not for resale, may apply to the director of revenue for authority to operate as a leasing company. Any company approved by the director of revenue may pay the tax due on any motor vehicle, trailer, boat, or outboard motor as required in section 144.020 at the time of registration thereof or in lieu thereof may pay a sales tax as provided in sections 144.010, 144.020, 144.070 and 144.440. A sales tax shall be charged to and paid by a leasing company which does not exercise the option of paying in accordance with section 144.020, on the amount charged for each rental or lease agreement while the motor vehicle, trailer, boat, or outboard motor is domiciled in this state. Any motor vehicle, trailer, boat, or outboard motor which is leased as the result of a contract executed in this state shall be presumed to be domiciled in this state.

6. Any corporation may have one or more of its divisions separately apply to the director of revenue for authorization to operate as a leasing company, provided that the corporation:

(1) Has filed a written consent with the director authorizing any of its divisions to apply for such authority;

(2) Is authorized to do business in Missouri;

(3) Has agreed to treat any sale of a motor vehicle, trailer, boat, or outboard motor from one of its divisions to another of its divisions as a sale at retail [within the meaning of subdivision (9) of subsection 1 of section 144.010];

(4) Has registered under the fictitious name provisions of sections 417.200 to 417.230 each of its divisions doing business in Missouri as a leasing company; and

(5) Operates each of its divisions on a basis separate from each of its other divisions. However, when the transfer of a motor vehicle, trailer, boat or outboard motor occurs within a corporation which holds a license to operate as a motor vehicle or boat dealer pursuant to sections 301.550 to 301.573 the provisions in subdivision (3) of this subsection shall not apply.

7. If the owner of any motor vehicle, trailer, boat, or outboard motor desires to charge and collect sales tax as provided in this section, the owner shall make application to the director of revenue for a permit to operate as a motor vehicle, trailer, boat, or outboard motor leasing company. The director of revenue shall promulgate rules and regulations determining the qualifications of such a company, and the method of collection and reporting of sales tax charged and collected. Such regulations shall apply only to owners of motor vehicles, trailers, boats, or outboard motors, electing to qualify as motor vehicle, trailer, boat, or outboard motor leasing companies under the provisions of subsection 5 of this section, and no motor vehicle renting or leasing, trailer renting or leasing, or boat or outboard motor renting or leasing company can come under sections 144.010, 144.020, 144.070 and 144.440 unless all motor vehicles, trailers, boats, and outboard motors held for renting and leasing are included.

8. Beginning July 1, 2010, any motor vehicle dealer licensed under section 301.560 engaged in the business of selling motor vehicles or trailers may apply to the director of revenue for authority to collect and remit the sales tax required under this section on all motor vehicles sold by the motor vehicle dealer. A motor vehicle dealer receiving authority to collect and remit the tax is subject to all provisions under sections 144.010 to 144.525. Any motor vehicle dealer authorized to collect and remit sales taxes on motor vehicles under this subsection shall be entitled to deduct and retain an amount equal to two percent of the motor vehicle sales tax pursuant to section 144.140. Any amount of the tax collected under this subsection that is retained by a motor vehicle dealer pursuant to section 144.140 shall not constitute state revenue. In no event shall revenues from the general revenue fund or any other state fund be utilized to compensate motor vehicle dealers for their role in collecting and remitting sales taxes on motor vehicles. In the event this subsection or any portion thereof is held to violate article IV, section 30(b) of the Missouri Constitution, no motor vehicle dealer shall be authorized to collect and remit sales taxes on motor vehicles under this section. No motor vehicle dealer shall seek compensation from the state of Missouri or its agencies if a court of competent jurisdiction declares that the retention of two percent of the motor vehicle sales tax is unconstitutional and orders the return of such revenues.

**262.815. CITATION OF LAW, PURPOSE — TRUST CREATED, OBJECTIVES — ADVISORY BOARD CREATED, MEMBERS, DUTIES, TERMS — FUND CREATED — RULEMAKING AUTHORITY. — 1. This section shall be known and may be cited as the "Missouri Farmland Trust Act". The purpose of this section is to allow individuals and entities to donate, gift, or otherwise convey farmland to the state department of agriculture for the purpose of preserving the land as farmland and to further provide beginning farmers with an opportunity to farm by allowing long-term low and variable cost leases, thereby making it affordable for the next generation of farmers to continue to produce food, fiber, and fuel.**

**2. There is hereby created the "Missouri Farmland Trust" which shall be implemented in a manner to accomplish the following objectives:**

- (1) Protect and preserve Missouri's farmland;**
- (2) Link new generations of prospective farmers with present farmers; and**
- (3) Promote best practices in environmental, livestock, and land stewardship.**

3. (1) There is hereby created within the department of agriculture the "Missouri Farmland Trust Advisory Board" which shall be comprised of five members appointed by the director of the department of agriculture. Members shall serve without compensation but, subject to appropriations, may be reimbursed for actual and necessary expenses.

(2) The board shall make recommendations to the director on the appropriate uses of farmland in the trust, criteria to be used to select applicants for the program, and review and make recommendations regarding applications to lease farmland in the trust.

(3) Members shall serve five-year terms, with each term beginning July first and ending June thirtieth; except that, of the members initially appointed two shall be appointed for a term of three years, two shall be appointed for a term of four years, and one shall be appointed for a term of five years. Each member shall serve until his or her successor is appointed. Any vacancies occurring prior to the expiration of a term shall be filled by appointment for the remainder of such term. No member shall serve more than two consecutive terms.

4. The department of agriculture is authorized to accept or acquire by purchase, lease, donation, or agreement any agricultural lands, easements, real and personal property, or rights in lands, easements, or real and personal property, including but not limited to buildings, structures, improvements, equipment, or facilities subject to preservation and improvement. Such lands shall be properties of the Missouri farmland trust for purposes of this section and shall be governed by the provisions of this section and rules promulgated thereunder.

5. (1) There is hereby created in the state treasury the "Missouri Farmland Trust Fund", which shall consist of all gifts, bequests, donations, transfers, and moneys appropriated by the general assembly under this section. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. Upon appropriation, money in the fund shall be used for the administration of this section and may be used to make payments to counties for the value of land as payment in lieu of real and personal property taxes for privately owned land acquired after the effective date of this section in such amounts as determined by the department; except that, the amount determined shall not be less than the real property tax paid at the time of acquisition. The department of agriculture may require applicants who are awarded leases to pay the property taxes owed under this section for such property.

(2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

(3) The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

6. The department of agriculture is authorized to accept all moneys, appropriations, gifts, bequests, donations, or other contributions of moneys or other real or personal property to be expended or used for any of the purposes of this section. The department may improve, maintain, operate, and regulate any such lands, easements, or real or personal property to promote agriculture and the general welfare using moneys in the fund. Property acquired by the department under this section shall be used for agricultural purposes. The director shall establish by rule guidelines for leasing farmland to the trust to beginning farmers for a period not to exceed twenty years. All property acquired by the department under this section shall be farmed and maintained using the best environmental, conservation, and stewardship practices as outlined by the department. The department may charge an administrative fee for lease application processing under this section.

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7. The department, in consultation with the Missouri farmland advisory board, shall promulgate rules to implement the provisions of this section, including but not limited to requirements for lessees, selection process for granting leases, and the terms of the lease, including requirements for applicants, renewal process, requirements for the maintenance of real and personal property by the lessee, and conditions for the termination of leases.

8. Any person or entity donating land to or leasing land from the department shall forever release the state of Missouri, the Missouri department of agriculture, the department's director, officers, employees, volunteers, agents, contractors, servants, heirs, successors, assigns, persons, firms, corporations, representatives, and other entities who are or who will be acting in concert or privity with or on behalf of the state from any and all actions, claims, or demands that he or she, family members, heirs, successors, assigns, agents, servants, employees, distributees, guardians, next-of-kin, spouse, and legal representatives now have or may have in the future for any injury, death, property damage related to:

- (1) Participation in such activities;
- (2) The negligence, intentional acts, or other acts, whether directly connected to such activities or not, and however caused; and
- (3) The condition of the premises where such activities occur.

9. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2011, shall be invalid and void.

**263.190. OWNERS TO CONTROL NOXIOUS WEEDS — NOTICE PROCEDURE — PENALTY — SALE OF NOXIOUS WEEDS PROHIBITED. —** 1. [The plants musk thistle (*Carduus nutans* L.), Scotch thistle (*Onoprodum acanthium* L.) and Canada thistle (*Cirsium arvense*) are hereby designated as noxious weeds. All owners of land shall control all such plants growing upon their land] As used in sections 263.190 to 263.474, "noxious weed" means any weed designated as noxious by rules promulgated by the director of the department of agriculture. The department shall maintain a list of such noxious weeds and shall make such list available to the public. The department of agriculture shall promulgate rules necessary to implement the provisions of this subsection. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this subsection shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This subsection and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2011, shall be invalid and void.

2. It shall be the duty of every owner of lands in this state, including but not limited to any person, association of persons, corporation, partnership, state highways and transportation commission, state department, state agency, county commission, township board, school board, drainage board, governing body of an incorporated city, railroad company or other transportation company and such company's authorized agent, and any person supervising state-owned lands to control all [Canada, musk, or Scotch thistles] noxious weeds growing thereon so often in each and every year as shall be sufficient to prevent [said

thistles] **such noxious weeds** from going to seed. If any owner of such land shall knowingly allow any [Canada, musk, or Scotch thistles] **noxious weeds** to grow thereon, such owner shall forfeit and pay the sum of one hundred dollars to the county commission for every such offense, and such sum forfeited plus court costs may be recovered by civil action instituted by the prosecuting attorney in the name of the county commission before any associate circuit judge of the county in which the offense is committed. All sums recovered by virtue of this section shall be paid to the use of the county control fund.

3. Before initiating any civil action under this section, the prosecuting attorney of the county in which the land, or the greater part thereof, is located shall notify the owner of the land of the requirements of this law, by certified mail, return receipt requested, from a list supplied by the officer who prepares the tax list, and shall allow the owner of the land fifteen days from acknowledgment date of return receipt, or date of refusal of acceptance, as the case may be, to **initiate control of** all such plants growing upon [his] **the owner's** land. Failure of the owner to **initiate control of** such plants within the fifteen-day period shall be prima facie evidence of the owner's knowledge that [he] **the owner** is in violation of this law, and each fifteen days the violation continues after the initial fifteen-day period shall, for the purpose of forfeiture and penalty herein, be considered a separate offense.

**4. All sales of noxious weed species are prohibited.**

**263.200. COUNTY COMMISSION DUTIES TO CONTROL NOXIOUS WEEDS, OFFICIAL IMMUNITY, LANDOWNER DUTY OF CARE — SPECIAL TAX FOR COST, COLLECTION — PROVISIONS APPLICABLE TO CERTAIN POLITICAL SUBDIVISIONS.** — 1. In addition to the remedies provided in section 263.190, when [Canada, musk, or Scotch thistles] **noxious weeds** are discovered growing on any lands in the county, it shall be the duty of the county commission to control such [thistles] **noxious weeds** so as to prevent the seed from ripening, and for that purpose the county commission, or its agents, servants, or employees shall have authority to enter on such lands without being liable to an action of trespass therefor, and shall have such official immunity as exists at common law for any misfeasance or damages occurring in connection with the attempt to control [Canada, musk, or Scotch thistles] **noxious weeds**. Notwithstanding any provision of law to the contrary, the county shall be liable for any misfeasance or actual damages caused by its agents, servants, or employees in connection with the attempt to control [Canada, musk, or Scotch thistles] **noxious weeds**. The landowner shall owe no duty of care to such persons, except that which the landowner owes to trespassers. The county commission shall keep an accurate account of the expenses incurred in controlling the [thistles] **noxious weeds**, and shall verify such statement under seal of the county commission, and transmit the same to the officer whose duty it is or may be to extend state and county taxes on tax books or bills against real estate; and such officer shall extend the aggregate expenses so charged against each tract of land as a special tax, which shall then become a lien on the lands, and be collected as state and county taxes are collected by law and paid to the county commission and credited to the county control fund.

2. Before proceeding to control [Canada, musk, or Scotch thistles] **noxious weeds** as provided in this section, the county commission of the county in which the land, or the greater part thereof, is located shall notify the owner of the land of the requirements of this law, by certified mail, return receipt requested, from a list supplied by the officer who prepares the tax list, and shall allow the owner of the land fifteen days from acknowledgment date of return receipt, or date of refusal of acceptance of delivery, as the case may be, to control all such [plants] **noxious weeds** growing upon [his] **the owner's** land.

3. Any land or properties that are owned solely by a political subdivision in a city not within a county shall be subject to all provisions of sections 263.190, 263.200, and 263.240.

**263.220. DUTY OF PROSECUTING ATTORNEY.** — It shall be the duty of the prosecuting attorney of the county to prosecute all actions brought under [sections 263.190 to 263.240] **section 263.190.**

**263.240. PENALTY FOR VIOLATION.** — Any person who shall violate any of the provisions of [sections 263.210 to 263.240 shall, upon conviction, be] **section 263.190 is, upon conviction,** guilty of a misdemeanor.

**268.121. RECORDED BRAND LIST A PUBLIC RECORD, FURNISHED TO GENERAL PUBLIC AT COST.** — It shall be the duty of the director from time to time to [cause to be published in book form] **create** a list of all brands on record at [the time of the publication] **that time and make such list available to the public on a publicly-accessible website.** The [lists may be supplemented] **list shall be updated** from time to time. The [publication] **list** shall contain a facsimile of all brands recorded and the owner's name and post-office address. The records shall be arranged in convenient form for reference. [It shall be the duty of the director to send one copy of the brand book and supplements to the county recorder of deeds of each county and to each licensed livestock market and slaughter plant in the state. The books and supplements shall be furnished without cost to the livestock market or slaughter plant or to the county and shall be kept as a matter of public record.] The [books and supplements] **list** may be sold to the general public at the cost of **its** printing and mailing [each book].

**275.360. REFUND OF FEES, REQUEST FOR.** — Any producer or grower may, by the use of forms provided by the director, have the fee paid and all future fees paid or collected from him pursuant to sections 275.300 to 275.370 refunded to him, provided such request for refund is in the office of the director within sixty days following the payment of such fee. Apples **and rice** will be exempt from this provision.

**276.401. TITLE, AND SCOPE OF THE LAW — DEFINITIONS.** — 1. Sections 276.401 to 276.582 shall be known as the "Missouri Grain Dealer Law".

2. The provisions of the Missouri grain dealer law shall apply to grain purchases where title to the grain transfers from the seller to the buyer within the state of Missouri.

3. Unless otherwise specified by contractual agreement, title shall be deemed to pass to the buyer as follows:

(1) On freight on board (FOB) origin or freight on board (FOB) basing point contracts, title transfers at time and place of shipment;

(2) On delivered contracts, when and where constructively placed, or otherwise made available at buyer's original destination;

(3) On contracts involving in-store commodities, at the storing warehouse and at the time of contracting or transfer, and/or mailing of documents, if required, by certified mail, unless and to the extent warehouse tariff, warehouse receipt and/or storage contract assumes the risk of loss and/or damage.

4. As used in sections 276.401 to 276.582, unless the context otherwise requires, the following terms mean:

(1) "Auditor", a person appointed under sections 276.401 to 276.582 by the director to assist in the administration of sections 276.401 to 276.582, and whose duties include making inspections, audits and investigations authorized under sections 276.401 to 276.582;

(2) "Authorized agent", any person who has the legal authority to act on behalf of, or for the benefit of, another person;

(3) "Buyer", any person who buys or contracts to buy grain;

(4) "Certified public accountant", any person licensed as such under chapter 326;

(5) "Claimant", any person who requests payment for grain sold by him to a dealer, but who does not receive payment because the purchasing dealer fails or refuses to make payment;

(6) "Credit sales contracts", a conditional grain sales contract wherein payment and/or pricing of the grain is deferred to a later date. Credit sales contracts include, but are not limited to, all contracts meeting the definition of deferred payment contracts, and/or delayed price contracts;

(7) "Current assets", resources that are reasonably expected to be realized in cash, sold, or consumed (prepaid items) within one year of the balance sheet date;

(8) "Current liabilities", obligations reasonably expected to be liquidated within one year and the liquidation of which is expected to require the use of existing resources, properly classified as current assets, or the creation of additional liabilities. Current liabilities include obligations that, by their terms, are payable on demand unless the creditor has waived, in writing, the right to demand payment within one year of the balance sheet date;

(9) "Deferred payment agreement", a conditional grain sales transaction establishing an agreed upon price for the grain and delaying payment to an agreed upon later date or time period. Ownership of the grain, and the right to sell it, transfers from seller to buyer so long as the conditions specified in section 276.461 and section 411.325 are met;

(10) "Deferred pricing agreement", a conditional grain sales transaction wherein no price has been established on the grain, the seller retains the right to price the grain later at a mutually agreed upon method of price determination. Deferred pricing agreements include, but are not limited to, contracts commonly known as no price established contracts, price later contracts, and basis contracts on which the purchase price is not established at or before delivery of the grain. Ownership of the grain, and the right to sell it, transfers from seller to buyer so long as the conditions specified in section 276.461 and section 411.325 are met;

(11) "Delivery date" shall mean the date upon which the seller transfers physical possession, or the right of physical possession, of the last unit of grain in any given transaction;

(12) "Department", the Missouri department of agriculture;

(13) "Designated representative", an employee or official of the department designated by the director to assist in the administration of sections 276.401 to 276.582;

(14) "Director", the director of the Missouri department of agriculture or his designated representative;

(15) "Generally accepted accounting principles", the conventions, rules and procedures necessary to define accepted accounting practice, which include broad guidelines of general application as well as detailed practices and procedures generally accepted by the accounting profession, and which have substantial authoritative support from the American Institute of Certified Public Accountants;

(16) "Grain", all grains for which the United States Department of Agriculture has established standards under the United States Grain Standards Act, Sections 71 to 87, Title 7, United States Code, and any other agricultural commodity or seed prescribed by the director by regulation;

(17) "Grain dealer" or "dealer", any person engaged in the business of, or as a part of his business participates in, buying grain where title to the grain transfers from the seller to the buyer within the state of Missouri. "Grain dealer" or "dealer" shall not be construed to mean or include:

(a) Any person or entity who is a member of a recognized board of trade or futures exchange and whose trading in grain is limited solely to trading with other members of a recognized board of trade or futures exchange; provided, that grain purchases from a licensed warehouseman, farmer/producer or any other individual or entity in a manner other than through the purchase of a grain futures contract on a recognized board of trade or futures exchange shall be subject to sections 276.401 to 276.582. Exempted herein are all futures transactions;

(b) A producer or feeder of grain for livestock or poultry buying grain for his own farming or feeding purposes who purchases grain exclusively from licensed grain dealers or whose total

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grain purchases from producers during his or her fiscal year do not exceed [one hundred thousand dollars] **fifty thousand bushels;**

(c) Any person or entity whose grain purchases in the state of Missouri are made exclusively from licensed grain dealers;

(d) A manufacturer or processor of registered or unregistered feed whose total grain purchases from producers during his or her fiscal year does not exceed one hundred thousand dollars and who pays for all grain purchases from producers at the time of physical transfer of the grain from the seller or his or her agent to the buyer or his or her agent and whose resale of such grain is solely in the form of manufactured or processed feed or feed by-products or whole feed grains to be used by the purchaser thereof as feed;

(18) "Grain transport vehicle", a truck, tractor-trailer unit, wagon, pup, or any other vehicle or trailer used by a dealer, whether owned or leased by him, to transport grain which he has purchased; except that, bulk or bagged feed delivery trucks which are used principally for the purpose of hauling feed and any trucks for which the licensed gross weight does not exceed twenty-four thousand pounds shall not be construed to be a grain transport vehicle;

(19) "Insolvent" or "insolvency", (a) an excess of liabilities over assets or (b) the inability of a person to meet his financial obligations as they come due, or both (a) and (b);

(20) "Interested person", any person having a contractual or other financial interest in grain sold to a dealer, licensed, or required to be licensed;

(21) "Location", any site other than the principal office where the grain dealer engages in the business of purchasing grain;

(22) "Minimum price contract", a conditional grain sales transaction establishing an agreed upon minimum price where the seller may participate in subsequent price gain, if any. Ownership of the grain, and the right to sell it, transfers from the seller to the buyer so long as the conditions specified in section 276.461 and section 411.325 are met;

(23) "Person", any individual, partnership, corporation, cooperative, society, association, trustee, receiver, public body, political subdivision or any other legal or commercial entity of any kind whatsoever, and any member, officer or employee thereof;

(24) "Producer", any owner, tenant or operator of land who has an interest in and receives all or any part of the proceeds from the sale of grain or livestock produced thereon;

(25) "Purchase", to buy or contract to buy grain;

(26) "Sale", the passing of title from the seller to the buyer in consideration of the payment or promise of payment of a certain price in money, or its equivalent;

(27) "Value", any consideration sufficient to support a simple contract.

**276.421. FINANCIAL STATEMENT TO ACCOMPANY APPLICATION, HOW PREPARED — FALSE STATEMENT, PENALTY — MINIMUM NET WORTH AND ASSETS REQUIRED. —** 1. All applications shall be accompanied by a true and accurate financial statement of the applicant, prepared within six months of the date of application, setting forth all the assets, liabilities and net worth of the applicant. **In the event that the applicant has been engaged in business as a grain dealer for at least one year, the financial statement shall set forth the aggregate dollar amount paid for grain purchased in Missouri and those states with whom Missouri has entered into contracts or agreements as authorized by section 276.566 during the last completed fiscal period of the applicant. In the event the applicant has been engaged in business for less than one year or has not previously engaged in business as a grain dealer, the financial statement shall set forth the estimated aggregate dollar amount to be paid for grain purchased in Missouri and those states with whom Missouri has entered into contracts or agreements as authorized by section 276.566 during the applicant's initial fiscal period.** All applications shall also be accompanied by a true and accurate statement of income and expenses for the applicant's most recently completed fiscal year. The financial statements required by this chapter shall be prepared in conformity with generally accepted

accounting principles; except that, the director may promulgate rules allowing for the valuation of assets by competent appraisal.

2. The financial statement required by subsection 1 of this section shall be audited or reviewed by a certified public accountant. The financial statement may not be audited or reviewed by the applicant, or an employee of the applicant, if an individual, or, if the applicant is a corporation or partnership, by an officer, shareholder, partner, or a direct employee of the applicant.

3. The director may require any additional information or verification with respect to the financial resources of the applicant as he deems necessary for the effective administration of this chapter. The director may promulgate rules setting forth minimum standards of acceptance for the various types of financial statements filed in accordance with the provisions of this chapter. The director may promulgate rules requiring a statement of retained earnings, a statement of changes in financial position, and notes and disclosures to the financial statements for all licensed grain dealers or all grain dealers required to be licensed. The additional information or verification referred to herein may include, but is not limited to, requiring that the financial statement information be reviewed or audited in accordance with standards established by the American Institute of Certified Public Accountants.

4. All grain dealers shall provide the director with a copy of all financial statements and updates to financial statements utilized to secure the bonds required by sections 276.401 to 276.582.

5. All financial statements submitted to the director for the purposes of this chapter shall be accompanied by a certification by the applicant or the chief executive officer of the applicant, subject to the penalty provision set forth in subsection 4 of section 276.536, that to the best of his knowledge and belief the financial statement accurately reflects the financial condition of the applicant for the fiscal period covered in the statement.

6. Any person who knowingly prepares or assists in the preparation of an inaccurate or false financial statement which is submitted to the director for the purposes of this chapter, or who during the course of providing bookkeeping services or in reviewing or auditing a financial statement which is submitted to the director for the purposes of this chapter, becomes aware of false information in the financial statement and does not disclose in notes accompanying the financial statements that such false information exists, or does not disassociate himself from the financial statements prior to submission, is guilty of a class C felony. Additionally, such persons are liable for any damages incurred by sellers of grain selling to a grain dealer who is licensed or allowed to maintain his license based upon inaccuracies or falsifications contained in the financial statement.

7. [Except as set forth in section 276.511 which mandates higher requirements for class I grain dealers,] Any licensed grain dealer or applicant for a grain dealer's license [who purchases less than four hundred thousand dollars worth of grain, during the dealer's last completed fiscal year, in the state of Missouri and those states with whom Missouri has entered into contracts or agreements as authorized by section 276.566 must] **shall** maintain a minimum net worth equal to [the greater of ten thousand dollars or] five percent of [such] **annual** grain purchases[. If grain purchases during the dealer's last completed fiscal year are four hundred thousand dollars or more, the dealer must maintain a net worth equal to the greater of twenty thousand dollars or one percent of grain purchases] **as set forth in the financial statements required by this chapter.** If the dealer or applicant is deficient in meeting this net worth requirement, he must post additional bond as required in section 276.436.

**8. Any licensed grain dealer or applicant for a grain dealer's license shall have and maintain current assets at least equal to one hundred percent of current liabilities. The financial statement required by this chapter shall set forth positive working capital in the form of a current ratio of the total adjusted current assets to the total adjusted current liabilities of at least one to one.**

(1) The director may allow applicants to offset negative working capital by increasing the grain dealer surety bond required by section 276.426 up to the total amount of negative working capital at the discretion of the director.

(2) Adjusted current assets shall be calculated by deducting from the stated current assets shown on the financial statement submitted by the applicant any current asset resulting from notes receivable from related persons, accounts receivable from related persons, stock subscriptions receivable, and any other related person receivables.

(3) A disallowed current asset shall be netted against any related liability and the net result, if an asset, shall be subtracted from the current assets.

**276.436. AMOUNT OF BOND — DIRECTOR TO ESTABLISH BY RULE — FORMULA — MINIMUM AND MAXIMUM — ADDITIONAL BOND BECAUSE OF LOW NET WORTH OR OTHER CIRCUMSTANCES — FAILURE TO MAINTAIN, EFFECT. —** 1. The total amount of the surety bond required of a dealer licensed pursuant to sections 276.401 to 276.582 shall be established by the director by rule, but in no event shall such bond be less than [twenty] **fifty** thousand dollars nor more than [three] **six** hundred thousand dollars, except as authorized by other provisions of sections 276.401 to 276.582.

2. The formula for determining the amount of bond shall be established by the director by rule and shall be computed at a rate of no less than the principal amount to the nearest one thousand dollars, equal to [not less than one percent and not more than five] **two** percent of the aggregate dollar amount paid by the dealer for grain purchased in the state of Missouri and those states with whom Missouri has entered into contracts or agreements as authorized by section 276.566 during the dealer's last completed fiscal year, or, in the case of a dealer who has been engaged in business as a grain dealer for less than one year or who has not previously engaged in such business, [not less than one percent and not more than five] **two** percent of the estimated aggregate dollar amount to be paid by the dealer for grain purchased in the state of Missouri and those states with whom Missouri has entered into contracts or agreements as authorized by section 276.566 during the applicant's initial fiscal year.

3. Any licensed grain dealer or applicant who has, at any time, a net worth less than the amount required by subsection 7 of section 276.421, shall be required to obtain a surety bond in the amount of one thousand dollars for each one thousand dollars or fraction thereof of the net worth deficiency. Failure to post such additional bond is grounds for refusal to license or the suspension or revocation of a license issued under sections 276.401 to 276.582. This additional bond can be in addition to or greater than or both in addition to and greater than the maximum bond as set by this section.

4. The director may, when the question arises as to a grain dealer's ability to pay for grain purchased, require a grain dealer to post an additional bond in a dollar amount deemed appropriate by the director. Such additional bond can be in addition to or greater than or both in addition to and greater than the maximum bond as set by this section. The director must furnish to the dealer, by certified mail, a written statement of the reasons for requesting additional bond and the reasons for questioning the dealer's ability to pay. Failure to post such additional bond is a ground for modification, suspension or revocation by the director of a license issued under sections 276.401 to 276.582. The determination of insufficiency of a bond and of the amount of the additional bond shall be based upon evidence presented to the director that a dealer:

- (1) Is or may be unable to meet his dollar or grain obligations as they become due;
- (2) Has acted or is acting in a way which might lead to the impairment of his capital;
- (3) As a result of his activity, inactivity, or purchasing and pricing practices and procedures, including, but not limited to, the dealer's deferred pricing or deferred payment practices and procedures, is or may be unable to honor his grain purchase obligations arising out of his dealer business. The amount of the additional bond required under this subsection shall not exceed the amount of the dealer's current loss position. Current loss position shall be the sum of the dealer's

current liabilities less current assets or the amount by which he is currently unable to meet the grain purchase obligations arising out of his dealer business.

5. One bond, cumulative as to minimum requirements, may be given where a dealer has multiple licenses; except however, that in computing the amount of the single bond the grain dealer may add together the total purchases of grain of all locations to be covered thereby and use the aggregate total purchases for the fiscal year for the purpose of computing bond. However, this single cumulative bond must be at least equal to [twenty] **fifty** thousand dollars per dealer license issued up to the [three] **six** hundred thousand dollar maximum bond amount specified in subsection 1 of this section. When a grain dealer elects to provide a single bond for a number of licensed locations, the total assets of all the licensed locations shall be subject to liabilities of each individual licensed location.

6. Failure of a grain dealer to provide and file a bond and financial statement and to keep such bond in force shall be grounds for the suspension or revocation, by the director, of a license issued under sections 276.401 to 276.582.

7. A dealer shall be required to post additional surety bond when he surpasses the estimated aggregate dollar amount to be paid for grain purchased as set forth in subsection 2 of this section. Such additional bond shall be determined by the director so as to effectively protect sellers of grain dealing with such dealer.

**276.441. DEALER MAY REQUEST USE OF MINIMUM BOND, PROCEDURE.** — 1. Any grain dealer who is of the opinion that his net worth is sufficient to guarantee payment for grain purchased by him may make a formal, written request to the director that he be relieved of the obligation of filing a bond in excess of the minimum bond of [twenty] **fifty** thousand dollars. Such request shall be accompanied by a financial statement of the applicant, prepared within four months of the date of such request and accompanied by such additional information concerning the applicant and his finances as the director may require which may include the request for submission of a financial statement audited by a public accountant.

2. If such financial statement discloses a net worth equal to at least five times the amount of the bond otherwise required by sections 276.401 to 276.582, and the director is otherwise satisfied as to the financial ability and resources of the applicant, the director may waive that portion of the required bond in excess of [twenty] **fifty** thousand dollars for each license issued.

**411.280. WAREHOUSEMAN'S NET WORTH, REQUIREMENTS — DEFICIENCY, HOW CORRECTED.** — Every warehouseman licensed under the provisions of this chapter shall have and maintain a net worth equal to the greater of ten thousand dollars or the amount which results from multiplying the storage capacity of the warehouse by [fifteen] **twenty-five** cents per bushel. Capital stock, for the purpose of determining the net worth, shall not be considered a liability. Any deficiency in required net worth above the ten thousand dollar minimum requirement may be met by supplying additional bond in an amount equal to one thousand dollars for each one thousand dollars or fraction thereof of deficiency.

**[263.205. MULTIFLORA ROSE A NOXIOUS WEED, EXCEPTIONS — COUNTIES MAY ESTABLISH PROGRAMS AND FUNDS TO CONTROL NOXIOUS WEEDS.** — 1. The plant multiflora rose (*rosa multiflora*) is hereby declared to be a noxious weed; except, notwithstanding any other provision of this section, multiflora rose (*rosa multiflora*) shall not be considered a noxious weed when cultivated for or used as understock for cultivated roses.

2. The governing body of any county of this state may opt to establish a "County Noxious Weed Fund" for the purpose of making grants on a cost share basis for the control of any noxious weed, as the plant may be designated under this section.



3. Any county opting to establish a county noxious weed fund, shall establish a noxious weed control program. No resident or owner of land of any county shall be required to participate in a county noxious weed control program; however, any resident or landowner making application for cost share grants under this section shall participate in said program.

4. For the purpose of administering the county noxious weed fund, the county governing body shall have sole discretion of awarding cost share grants under this section.

5. For the purpose of funding the county noxious weed fund, the county governing body may appropriate county funds, and/or solicit municipality, state agency, state general revenue, and federal agency funds. All such funds shall be deposited in the county noxious weed fund to be expended for the sole purpose of controlling noxious weeds so designated under this section.

6. Any county opting to establish a county noxious weed control program under this section may make rules and regulations governing said program, and any county opting to establish a county noxious weed fund under this section shall establish a cost share ratio on an annual basis beginning with the creation of the fund.]

**[263.230. CONTROL OF SPREAD OF BINDWEED, BY WHOM.** — It shall be the duty of any person or persons, association of persons, corporations, partnerships, the state highways and transportation commission, the county commissions, the township boards, school boards, drainage boards, the governing bodies of incorporated cities, railroad companies and other transportation companies or their authorized agents and those supervising state-owned lands to control the spread of and to eradicate by methods approved by the state department of agriculture field bindweed (*convolvulus arvensis*) hereby designated as a noxious and dangerous weed to agriculture.]

**[263.232. ERADICATION AND CONTROL OF THE SPREAD OF TEASEL, KUDZU VINE, AND SPOTTED KNAPWEED.** — It shall be the duty of any person or persons, association of persons, corporations, partnerships, the state highways and transportation commission, any state department, any state agency, the county commissions, the township boards, school boards, drainage boards, the governing bodies of incorporated cities, railroad companies and other transportation companies or their authorized agents and those supervising state-owned lands:

(1) To control and eradicate the spread of cut-leaved teasel (*Dipsacus laciniatus*) and common teasel (*Dipsacus fullonum*), which are hereby designated as noxious and dangerous weeds to agriculture, by methods in compliance with the manufacturer's label instructions when chemical herbicides are used for such purposes;

(2) To control the spread of kudzu vine (*Pueraria lobata*), which is hereby designated as a noxious and dangerous weed to agriculture, by methods in compliance and conformity with the manufacturer's label instructions when chemical herbicides are used for such purposes; and

(3) To control the spread of spotted knapweed (*Centaurea stoebe* ssp. *micranthos*, including all subspecies), which is hereby designated as a noxious and dangerous weed to agriculture, by methods in compliance and conformity with the manufacturer's label instructions when chemical herbicides are used for such purposes.]

**[263.241. PLANT, PURPLE LOOSESTRIFE (LYTHRUM SALICARIA) DECLARED A NOXIOUS WEED — DISTRIBUTION FOR CONTROL EXPERIMENTS ONLY, PERMIT REQUIRED, VIOLATIONS, PENALTY.** — The plant, purple loosestrife (*Lythrum salicaria*), and any hybrids thereof, is hereby designated a noxious weed. No person

shall buy, sell, offer for sale, distribute or plant seeds, plants or parts of plants of purple loosestrife without a permit issued by the Missouri department of conservation. Such permits shall be issued only for experiments to control and eliminate nuisance weeds. Any person who violates the provisions of this section shall be guilty of a class A misdemeanor.]

**[263.450. NOXIOUS WEED, DEFINED — DESIGNATION OF NOXIOUS WEED BY DIRECTOR OF DEPARTMENT OF AGRICULTURE.** — As used in sections 263.450 to 263.474, the term "noxious weed" includes bindweed (*Convolvulus arvensis*), Johnson grass (*Sorghum halepense*), multiflora rose (*Rosa multiflora*) except when cultivated for or used as understock for cultivated roses, Canada thistle (*Cirsium arvense*), musk thistle (*Carduus nutans* L.), Scotch thistle (*Onoprodum acanthium* L.), purple loosestrife (*Lythrum salicaria*), and any other weed designated as noxious by rules and regulations promulgated by the director of the department of agriculture.]

**[276.416. APPLICATION TO LIST DOLLAR AMOUNTS OF GRAIN PURCHASED OR TO BE PURCHASED.** — In the event that the applicant has been engaged in business as a grain dealer for at least one year, the application shall set forth the aggregate dollar amount paid for grain purchased in Missouri and those states with whom Missouri has entered into contracts or agreements as authorized by section 276.566 during the last completed fiscal period of the applicant. In the event the applicant has been engaged in business for less than one year or has not previously engaged in business as a grain dealer, the application shall set forth the estimated aggregate dollar amount to be paid for grain purchased in Missouri and those states with whom Missouri has entered into contracts or agreements as authorized by section 276.566 during the applicant's initial fiscal period.]

**[276.446. SMALL DEALERS MAY HAVE LOWER MINIMUM BOND.** — Any grain dealer whose total purchases of grain within Missouri and those states with whom Missouri has entered into contracts or agreements as authorized by section 276.566 during any fiscal year, do not exceed an aggregate dollar amount of four hundred thousand dollars may satisfy the bonding requirements of sections 276.401 to 276.581 by filing with the director a bond at the rate of one thousand dollars for each twenty thousand dollars or fraction thereof of the dollar amount to be purchased, with a minimum bond of ten thousand dollars required.]

**SECTION B. EMERGENCY CLAUSE.** — Because immediate action is necessary to have continuity in the study of urban farming issues, the repeal and reenactment of section 21.801 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 21.801 of section A of this act shall be in full force and effect upon its passage and approval.

Approved July 11, 2011

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SB 366 [HCS SCS SB 366]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

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**Creates Missouri cooperative associations.**

AN ACT to repeal section 351.658, RSMo, and to enact in lieu thereof eighty-one new sections relating to the Missouri cooperative associations act, with penalty provisions.

**SECTION**

- A. Enacting clause.
- 351.408. Conversion to corporation, certificate of conversion required, procedure, effect of conversion.
- 351.409. Conversion of corporation to another business entity, procedure — certificate of conversion required — effect of conversion — inapplicability to nonprofit organizations.
- 351.658. Fees for corporate filings with secretary of state.
- 351.1000. Citation of law.
- 351.1003. Definitions
- 351.1006. Formation and organization authorized.
- 351.1009. Authorized officer or director required, when — bylaws and board — organizational meeting.
- 351.1012. Name of cooperative, requirements.
- 351.1015. Articles, contents, filing requirements — formation, when — transaction of business, when.
- 351.1018. Amendment of articles, procedure.
- 351.1021. Revocation of erroneous filing and curative documents, fee.
- 351.1024. Date of existence — perpetual duration, exception.
- 351.1027. Office and agent requirements — change of office or agent, procedure — resignation of agent, procedure — appointment of agent by secretary of state, when.
- 351.1030. Bylaw requirements, adoption, amendment — emergency bylaws permitted.
- 351.1033. Record-keeping requirements — examination of records, when.
- 351.1036. Additional powers — act as agent of members, when — contractual authority — property rights — financial rights — employee benefits permitted.
- 351.1039. Emergency powers and procedures
- 351.1042. Governance by board required — board action, requirements — third-party agreements permitted, when.
- 351.1045. Minimum number of directors — division into classes permitted.
- 351.1048. Board election, procedure — voting by mail, procedure.
- 351.1051. Vacancy, how filled.
- 351.1054. Removal of director, procedure.
- 351.1057. Meetings, conferences.
- 351.1060. Quorum requirements.
- 351.1063. Majority vote required, when.
- 351.1066. Written action permitted, when, procedure.
- 351.1069. Committees, procedure for meetings, minutes — committee members considered directors.
- 351.1072. Discharge of duties, directors.
- 351.1075. Contracts and transactions, not voidable for material financial interest of director, when.
- 351.1078. Personal liability of directors, limitations.
- 351.1081. Definitions — indemnification of former officials, when — liability insurance permitted, when.
- 351.1084. Election of officers — chief executive officer permitted.
- 351.1087. Membership of cooperatives, requirements — membership interests, authorization and issuance.
- 351.1090. Division of membership interests, classes or series.
- 351.1093. Certified and uncertified membership interests, requirements.
- 351.1096. Issuance of new certificates of membership for destroyed, lost, or stolen certificates.
- 351.1099. Annual meeting requirements.
- 351.1102. Special members' meetings, when, requirements.
- 351.1105. Quorum, how constituted.
- 351.1108. Meetings, remote communication permitted, requirements.
- 351.1111. Majority vote of members required, when.
- 351.1114. Written action permitted, when, requirements.
- 351.1117. Patron members, voting rights and requirements.
- 351.1120. Additional vote for patron member, when.
- 351.1123. Membership interests owned or controlled by another business, person, or trust.
- 351.1126. Cooperative interests in other business entity, representative at business meeting of other entity permitted.
- 351.1129. Property rights of cooperative.
- 351.1132. Transfer of membership and financial rights, restrictions — death of member, effect of.
- 351.1135. Contributions accepted, when, requirements.
- 351.1138. Contribution agreements, requirements.
- 351.1141. Contribution rights agreements.
- 351.1144. Profits and losses, allocation of, requirements.
- 351.1147. Net income, set aside permitted, when — annual distribution required — refund credits.
- 351.1150. Unclaimed property, how treated.
- 351.1153. Merger and consolidation — definitions — procedure, effect of.
- 351.1156. Subsidiaries, merger with parent, when, procedure — certificate of merger required.

- 351.1159. Abandonment of plan of merger, procedure.
- 351.1162. Dissolution, affirmative vote required.
- 351.1165. Notice of dissolution.
- 351.1168. Dissolution, interests in property may be conveyed, when.
- 351.1171. Revocation of dissolution proceedings, when — members' meeting permitted — effective date of revocation
- 351.1174. Creditor claims barred, when.
- 351.1177. Articles of dissolution, procedure.
- 351.1180. Court supervision of dissolution, when.
- 351.1183. Equitable relief and liquidation of assets, when.
- 351.1186. Court authority in dissolution proceedings — receiver may be appointed — distribution of assets.
- 351.1189. Receivers, requirements.
- 351.1192. Involuntary dissolution, when.
- 351.1195. Creditor claims to be filed under oath, when, court procedure.
- 351.1198. Discontinuance of involuntary dissolution.
- 351.1201. Court order of dissolution, when.
- 351.1204. Certified copy of dissolution to be filed.
- 351.1207. Creditor claims after dissolution forever barred.
- 351.1210. Claims against dissolved cooperative, former officers, directors, and members may defend.
- 351.1213. Foreign cooperatives, conflict of laws — certificate of authority required, other requirements.
- 351.1216. Notice deemed given, when — electronic communications, consent given, when.
- 351.1219. Cooperative not deemed a franchise.
- 351.1222. Records and signatures — definitions — legal effect of.
- 351.1225. Amendments and repeal of act, state reserves right of.
- 351.1227. Additional powers of secretary of state — rulemaking authority.
- 351.1228. Filing fees, determined by secretary of state.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Section 351.658, RSMo, is repealed and eighty-one new sections enacted in lieu thereof, to be known as sections 351.408, 351.409, 351.658, 351.1000, 351.1003, 351.1006, 351.1009, 351.1012, 351.1015, 351.1018, 351.1021, 351.1024, 351.1027, 351.1030, 351.1033, 351.1036, 351.1039, 351.1042, 351.1045, 351.1048, 351.1051, 351.1054, 351.1057, 351.1060, 351.1063, 351.1066, 351.1069, 351.1072, 351.1075, 351.1078, 351.1081, 351.1084, 351.1087, 351.1090, 351.1093, 351.1096, 351.1099, 351.1102, 351.1105, 351.1108, 351.1111, 351.1114, 351.1117, 351.1120, 351.1123, 351.1126, 351.1129, 351.1132, 351.1135, 351.1138, 351.1141, 351.1144, 351.1147, 351.1150, 351.1153, 351.1156, 351.1159, 351.1162, 351.1165, 351.1168, 351.1171, 351.1174, 351.1177, 351.1180, 351.1183, 351.1186, 351.1189, 351.1192, 351.1195, 351.1198, 351.1201, 351.1204, 351.1207, 351.1210, 351.1213, 351.1216, 351.1219, 351.1222, 351.1225, 351.1227 and 351.1228, to read as follows:

**351.408. CONVERSION TO CORPORATION, CERTIFICATE OF CONVERSION REQUIRED, PROCEDURE, EFFECT OF CONVERSION.** — **1.** As used in this section, the term "other entity" means a limited liability company, statutory trust, business trust or association, real estate investment trust, common-law trust or any other unincorporated business including a partnership (whether general (including a limited liability partnership) or limited (including a limited liability limited partnership)), or a foreign corporation.

**2.** Any other entity may convert to a corporation of this state by complying with subsection 8 of this section and filing in the office of the secretary of state:

(1) A certificate of conversion to corporation that has been executed in accordance with subsection 9 of this section and filed in accordance with section 351.046; and

(2) Articles of incorporation that have been executed, acknowledged and filed in accordance with section 351.046.

**3.** The certificate of conversion to corporation shall state:

(1) The date on which and jurisdiction where the other entity was first created, incorporated, formed or otherwise came into being and, if it has changed, its jurisdiction immediately prior to its conversion to a domestic corporation;

(2) The name of the other entity immediately prior to the filing of the certificate of conversion to corporation; and

(3) The name of the corporation as set forth in its articles of incorporation filed in accordance with subsection 2 of this section.

4. Upon the effective time of the certificate of conversion to corporation and the articles of incorporation, the other entity shall be converted to a corporation of this state and the corporation shall thereafter be subject to all of the provisions of this title, except that notwithstanding section 351.075, the existence of the corporation shall be deemed to have commenced on the date the other entity commenced its existence in the jurisdiction in which the other entity was first created, formed, incorporated or otherwise came into being.

5. The conversion of any other entity to a corporation of this state shall not be deemed to affect any obligations or liabilities of the other entity incurred prior to its conversion to a corporation of this state or the personal liability of any person incurred prior to such conversion.

6. When another entity has been converted to a corporation of this state under this section, the corporation of this state shall, for all purposes of the laws of the state of Missouri, be deemed to be the same entity as the converting other entity. When any conversion shall have become effective under this section, for all purposes of the laws of the state of Missouri, all of the rights, privileges and powers of the other entity that has converted, and all property, real, personal and mixed, and all debts due to such other entity, as well as all other things and causes of action belonging to such other entity, shall remain vested in the domestic corporation to which such other entity has converted and shall be the property of such domestic corporation and the title to any real property vested by deed or otherwise in such other entity shall not revert or be in any way impaired by reason of this chapter; but all rights of creditors and all liens upon any property of such other entity shall be preserved unimpaired, and all debts, liabilities and duties of the other entity that has converted shall remain attached to the corporation of this state to which such other entity has converted, and may be enforced against it to the same extent as if said debts, liabilities and duties had originally been incurred or contracted by it in its capacity as a corporation of this state. The rights, privileges, powers and interests in property of the other entity, as well as the debts, liabilities and duties of the other entity, shall not be deemed, as a consequence of the conversion, to have been transferred to the domestic corporation to which such other entity has converted for any purpose of the laws of the state of Missouri.

7. Unless otherwise agreed for all purposes of the laws of the state of Missouri or as required under applicable non-Missouri law, the converting other entity shall not be required to wind up its affairs or pay its liabilities and distribute its assets, and the conversion shall not be deemed to constitute a dissolution of such other entity and shall constitute a continuation of the existence of the converting other entity in the form of a corporation of this state.

8. Prior to filing a certificate of conversion to corporation with the office of the secretary of state, the conversion shall be approved in the manner provided for by the document, instrument, agreement or other writing, as the case may be, governing the internal affairs of the other entity and the conduct of its business or by applicable law, as appropriate, and articles of incorporation shall be approved by the same authorization required to approve the conversion.

9. The certificate of conversion to corporation shall be signed by any person who is authorized to sign the certificate of conversion to corporation on behalf of the other entity.

10. In connection with a conversion hereunder, rights or securities of, or interests in, the other entity which is to be converted to a corporation of this state may be exchanged

for or converted into cash, property, or shares of stock, rights or securities of such corporation of this state or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, or shares of stock, rights or securities of or interests in another domestic corporation or other entity or may be cancelled.

**351.409. CONVERSION OF CORPORATION TO ANOTHER BUSINESS ENTITY, PROCEDURE — CERTIFICATE OF CONVERSION REQUIRED — EFFECT OF CONVERSION — INAPPLICABILITY TO NONPROFIT ORGANIZATIONS. — 1.** A corporation of this state may, upon the authorization of such conversion in accordance with this section, convert to a limited liability company, statutory trust, business trust or association, real estate investment trust, common law trust or any other unincorporated business including a partnership (whether general (including a limited liability partnership) or limited (including a limited liability limited partnership)) or a foreign corporation.

2. The board of directors of the corporation which desires to convert under this section shall adopt a resolution approving such conversion, specifying the type of entity into which the corporation shall be converted and recommending the approval of such conversion by the shareholders of the corporation. Such resolution shall be submitted to the shareholders of the corporation at an annual or special meeting. Due notice of the time, and purpose of the meeting shall be mailed to each holder of stock, whether voting or nonvoting, of the corporation at the address of the shareholder as it appears on the records of the corporation, at least twenty days prior to the date of the meeting. At the meeting, the resolution shall be considered and a vote taken for its adoption or rejection. If all outstanding shares of stock of the corporation, whether voting or nonvoting, shall be voted for the adoption of the resolution, the conversion shall be authorized.

3. If a corporation shall convert in accordance with this section to another entity organized, formed or created under the laws of this state or of a jurisdiction other than the state of Missouri, the corporation shall file with the secretary of state a certificate of conversion executed in accordance with section 351.046, which certifies:

(1) The name of the corporation, and if it has been changed, the name under which it was originally incorporated;

(2) The date of filing of its original articles of incorporation with the secretary of state;

(3) The name and jurisdiction of the entity to which the corporation shall be converted;

(4) That the conversion has been approved in accordance with the provisions of this section;

(5) The agreement of the corporation that it may be served with process in the state of Missouri in any action, suit or proceeding for enforcement of any obligation of the corporation arising while it was a corporation of this state, and that it irrevocably appoints the secretary of state as its agent to accept service of process in any such action, suit or proceeding; and

(6) The address to which a copy of the process referred to in subdivision (5) of this subsection shall be mailed to it by the secretary of state. Process may be served upon the secretary of state in accordance with subdivision (5) of this subsection by means of electronic transmission but only as prescribed by the secretary of state. The secretary of state is authorized to issue such rules and regulations with respect to such service as the secretary of state deems necessary or appropriate. In the event of such service upon the secretary of state in accordance with subdivision (5) of this subsection, the secretary of state shall forthwith notify such corporation that has converted out of the state of Missouri by letter, directed to such corporation that has converted out of the state of Missouri at the address so specified, unless such corporation shall have designated in writing to the

secretary of state a different address for such purpose, in which case it shall be mailed to the last address designated. Such letter shall be sent by a mail or courier service that includes a record of mailing or deposit with the courier and a record of delivery evidenced by the signature of the recipient. Such letter shall enclose a copy of the process and any other papers served on the secretary of state under this subsection. It shall be the duty of the plaintiff in the event of such service to serve process and any other papers in duplicate, to notify the secretary of state that service is being effected under this subsection and to pay the secretary of state the sum of fifty dollars for the use of the state, which sum shall be taxed as part of the costs in the proceeding, if the plaintiff shall prevail therein. The secretary of state shall maintain an alphabetical record of any such service setting forth the name of the plaintiff and the defendant, the title, docket number and nature of the proceeding in which process has been served, the fact that service has been effected under this subsection, the return date thereof, and the day and hour service was made. The secretary of state shall not be required to retain such information longer than five years from receipt of the service of process.

4. Upon the filing in the office of the secretary of state of a certificate of conversion in accordance with subsection 3 of this section or upon the future effective date or time of the certificate of conversion and payment to the secretary of state of all fees prescribed under this chapter, the secretary of state shall certify that the corporation has filed all documents and paid all fees required by this chapter, and thereupon the corporation shall cease to exist as a corporation of this state at the time the certificate of conversion becomes effective in accordance with section 351.075. Such certificate of the secretary of state shall be prima facie evidence of the conversion by such corporation.

5. The conversion of a corporation in accordance with this section and the resulting cessation of its existence as a corporation of this state pursuant to a certificate of conversion shall not be deemed to affect any obligations or liabilities of the corporation incurred prior to such conversion or the personal liability of any person incurred prior to such conversion, nor shall it be deemed to affect the choice of law applicable to the corporation with respect to matters arising prior to such conversion.

6. Unless otherwise provided in a resolution of conversion adopted in accordance with this section, the converting corporation shall not be required to wind up its affairs or pay its liabilities and distribute its assets, and the conversion shall not constitute a dissolution of such corporation.

7. In connection with a conversion of a domestic corporation to another entity under this section, shares of stock, of the corporation of this state which is to be converted may be exchanged for or converted into cash, property, rights or securities of, or interests in, the entity to which the corporation of this state is being converted or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, shares of stock, rights or securities of, or interests in, another domestic corporation or other entity or may be cancelled.

8. When a corporation has been converted to another entity or business form under this section, the other entity or business form shall, for all purposes of the laws of the state of Missouri, be deemed to be the same entity as the corporation. When any conversion shall have become effective under this section, for all purposes of the laws of the state of Missouri, all of the rights, privileges and powers of the corporation that has converted, and all property, real, personal and mixed, and all debts due to such corporation, as well as all other things and causes of action belonging to such corporation, shall remain vested in the other entity or business form to which such corporation has converted and shall be the property of such other entity or business form, and the title to any real property vested by deed or otherwise in such corporation shall not revert or be in any way impaired by reason of this chapter; but all rights of creditors and all liens upon any property of such

corporation shall be preserved unimpaired, and all debts, liabilities and duties of the corporation that has converted shall remain attached to the other entity or business form to which such corporation has converted, and may be enforced against it to the same extent as if said debts, liabilities and duties had originally been incurred or contracted by it in its capacity as such other entity or business form. The rights, privileges, powers and interest in property of the corporation that has converted, as well as the debts, liabilities and duties of such corporation, shall not be deemed, as a consequence of the conversion, to have been transferred to the other entity or business form to which such corporation has converted for any purpose of the laws of the state of Missouri.

9. No vote of shareholders of a corporation shall be necessary to authorize a conversion if no shares of the stock of such corporation shall have been issued prior to the adoption by the board of directors of the resolution approving the conversion.

10. Nothing in this section shall be deemed to authorize the conversion of a nonprofit corporation into another entity.

**351.658. FEES FOR CORPORATE FILINGS WITH SECRETARY OF STATE.** — Except as otherwise provided in this chapter, the secretary of state shall charge and collect for:

- (1) Filing application for reservation of a corporate name, twenty dollars;
- (2) Filing amendment to articles of incorporation or certificate of authority and issuing a certificate of amendment or amended certificate of authority, twenty dollars;
- (3) Filing articles of merger or consolidation, twenty-five dollars plus five dollars for each merging or consolidating Missouri corporation or foreign corporation authorized to do business in Missouri over two in number;
- (4) Filing articles of dissolution, twenty dollars; filing articles of liquidation, twenty dollars;
- (5) Filing of revocation of articles of dissolution, twenty dollars;
- (6) Filing of restated articles of incorporation, twenty dollars;
- (7) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, twenty dollars;
- (8) Filing statement of change of address of registered office or change of registered agent, or both, five dollars;
- (9) Filing resignation of registered agent, five dollars;
- (10) Certified copy of corporate record, in a written format fifty cents per page plus five dollars for certification, or in an electronic format five dollars for certification and copies;
- (11) Furnishing certificate of corporate existence, five dollars;
- (12) Furnishing certificate — others, twenty dollars;
- (13) Filing evidence of merger by a foreign corporation, twenty dollars plus one dollar for each additional foreign corporation authorized to do business in Missouri over two;
- (14) Filing evidence of dissolution by a foreign corporation, twenty dollars;
- (15) **Filing certificate of conversion to a corporation under section 351.408, fifty-three dollars;**
- (16) **Filing certificate of conversion from a corporation under section 351.409, fifty dollars.**

**351.1000. CITATION OF LAW.** — Sections 351.1000 to 351.1228 shall be known and may be cited as the "Missouri Cooperative Associations Act". Any cooperative formed under sections 351.1000 to 351.1228 shall not be subject to the provisions regarding cooperative associations found under sections 357.010 to 357.190, and cooperative associations formed under sections 357.010 to 357.190 shall not be subject to the provisions hereunder.

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**351.1003. DEFINITIONS** — As used in sections 351.1000 to 351.1228, the following words shall mean:

(1) "Alternative ballot", an alternative method of voting by a member, and may include voting by electronic, telephonic, internet, or other means that reasonably allow members the opportunity to vote;

(2) "Articles", the articles of association of a cooperative as originally filed with the secretary of state and as may be subsequently amended from time to time by the cooperative in accordance with sections 351.1000 to 351.1228;

(3) "Board", the board of directors of a cooperative;

(4) "Business entity", a corporation, limited liability company, limited partnership, limited liability partnership, or other legal entity, association, or body vested with the power or function of a legal entity, whether domestic or foreign;

(5) "Bylaws", the bylaws of a cooperative as originally adopted and as may be subsequently amended from time to time in accordance with sections 351.1000 to 351.1228;

(6) "Cooperative" and "domestic cooperative", an organization chartered under sections 351.1000 to 351.1228;

(7) "Domestic business entity", a business entity organized under the laws of this state;

(8) "Financial rights", only that share of profits and losses of the cooperative and the distributions thereof to which a member is entitled, and does not include a member's governance rights;

(9) "Foreign business entity", a business entity formed under the laws of any jurisdiction other than the state of Missouri;

(10) "Foreign cooperative", a cooperative association formed under the laws of any jurisdiction other than this state, but does not include a foreign business entity which is not organized as a cooperative association, but otherwise operates on a cooperative basis;

(11) "Governance rights", those rights of a member to govern the operations of a cooperative as described in, and subject to, any restrictions as set forth in the bylaws or articles of the cooperative, including but not limited to a member's right to vote based on the membership interests of such member;

(12) "Member", any person which has been granted membership in a cooperative under the terms of the bylaws of the cooperative including patron and nonpatron members;

(13) "Membership interest", a member's interest in a cooperative, including but not limited to a member's financial rights, a member's governance rights, and a member's rights to assign such governance and financial rights. "Membership interest" includes patron membership interests and nonpatron membership interests;

(14) "Members' meeting", a regular or special meeting of the members;

(15) "Missouri for profit corporation", a corporation governed by chapter 351;

(16) "Missouri limited liability company", a limited liability company governed by chapter 347;

(17) "Missouri not-for-profit corporation", a corporation governed by chapter 355;

(18) "Nonpatron", a person which does not conduct patronage with the cooperative;

(19) "Nonpatron member", a member which is a nonpatron;

(20) "Nonpatron membership interest", a membership interest that does not require the holder to conduct patronage for or with the cooperative in order to receive distributions or other financial rights with respect to such membership interest;

(21) "Patron", a person which conducts patronage with the cooperative;

(22) "Patron member", a member which is a patron;

(23) "Patron membership interest", a membership interest which requires the holder to conduct patronage for or with the cooperative in order to receive distributions or other financial rights with respect to such membership interest;

(24) "Patronage", business, transactions, or services done by, for, through or with the cooperative, as determined by the board;

(25) "Person", a natural person or an entity and includes, without limitation, a foreign or domestic corporation whether not-for-profit or for profit, a partnership, a limited liability company, an unincorporated society or association, two or more persons having a joint or common interest, or any other business entity;

(26) "Record date", the date fixed by the board for determination of the owners of membership interests entitled to notice of and entitled to vote at a members' meeting as described in subsection 5 of section 351.1117;

(27) "Secretary of state", the secretary of state of the state of Missouri;

(28) "State", the state of Missouri.

**351.1006. FORMATION AND ORGANIZATION AUTHORIZED.** — A cooperative may be formed and organized under sections 351.1000 to 351.1228 and may conduct or promote any lawful business or purpose for the mutual welfare of its members within or without this state, which may include:

(1) Providing, directly or indirectly, products, supplies, advertising, and marketing programs, or other services to such cooperative's members, and acting as the cooperative members' agent in the negotiation for and procurement of such products, supplies, programs, or services;

(2) Marketing, processing, or otherwise changing the form or marketability of products, supplies, programs, or services, either directly or indirectly; manufacturing and further processing of such products, supplies, programs, or services; other purposes that are necessary or convenient to facilitate the production, distribution or marketing of products, supplies, programs, or services by patron members and others; and other purposes that are related to the business of the cooperative;

(3) Any other lawful purpose that aids, assists, or is beneficial to the cooperative; and

(4) Any other lawful purpose.

**351.1009. AUTHORIZED OFFICER OR DIRECTOR REQUIRED, WHEN — BYLAWS AND BOARD — ORGANIZATIONAL MEETING.** — 1. A cooperative may be organized by one or more persons. If any organizer shall be a business entity, then such organizer shall be represented by an authorized officer or director of such business entity who shall execute any documents on the organizer's behalf. The organizer or organizers forming the cooperative need not be members of the cooperative.

2. If the persons constituting the first board are not named in the articles, then the organizer or organizers, by majority vote at a meeting or by unanimous written consent, shall have the power to adopt the bylaws and name the persons to serve as the first directors of the board.

3. As soon as convenient after the first board has been named, an organizational meeting of the board shall be held within or without this state at the call of a majority of the directors for the purposes of electing officers, adopting bylaws if not previously adopted by the organizers, and performing any other acts to finalize the cooperative's organization and transact any other business as may come before the board at a meeting.

**351.1012. NAME OF COOPERATIVE, REQUIREMENTS.** — 1. The name of each cooperative shall include the words "Cooperative", "Association", "Cooperative

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Association", "Co-op", or "C.A." and, except to the extent a cooperative transacts business under a fictitious name registered in this state to the cooperative, shall be the name under which the cooperative transacts business in this state. The name shall not contain any word or phrase which indicates or implies that the cooperative is any governmental agency.

2. The name of a cooperative shall distinguish the cooperative upon the records in the office of the secretary of state from the name of a domestic business entity or a foreign business entity which is authorized or registered to do business in this state, or a name the right to which is, at the time of organization, reserved or as otherwise provided for by law.

**351.1015. ARTICLES, CONTENTS, FILING REQUIREMENTS — FORMATION, WHEN — TRANSACTION OF BUSINESS, WHEN. — 1. (1) The articles shall include:**

- (a) The name of the cooperative;
  - (b) The purpose of the cooperative, which may be or may include the transaction of any lawful business for which a cooperative may be organized under sections 351.1000 to 351.1228;
  - (c) The name and physical business or residence address of each organizer;
  - (d) The effective date of the articles if other than the date of filing, provided that such effective date can be no longer than ninety days after the date of filing;
  - (e) The address, including street and number, of the cooperative's registered office, which address may not be a post office box, and the name of the cooperative's registered agent at such address; and
  - (f) The period of duration for the cooperative, if not perpetual.
- (2) The articles may contain any other lawful provision.
- (3) The articles shall be signed by the organizers.

2. The articles shall be filed with the secretary of state. The fee for filing the articles with the secretary of state is one hundred dollars.

3. A cooperative shall be formed when the articles, and appropriate filing fee, are filed with and stamped "Filed" by the secretary of state. In the case of all articles which are accepted and stamped "Filed" by the secretary of state, it shall be presumed that:

- (1) All conditions precedent that are required to be performed by the organizer or organizers have been so performed;
- (2) The organization of the cooperative has been chartered by the state as a separate legal entity; and
- (3) The secretary of state shall issue a certificate of organization to the cooperative.

4. A cooperative shall not transact business prior to formation. A cooperative shall not transact business in this state as an entity under sections 351.1000 to 351.1228 until the articles have been stamped "Filed" by the secretary of state, whether on the date of filing or at a later effective date as specified in the articles.

**351.1018. AMENDMENT OF ARTICLES, PROCEDURE. — 1. Unless otherwise set forth in the articles or bylaws, the articles may be amended as follows:**

- (1) The board, by majority vote, shall pass a resolution stating the text of the proposed amendment, a copy of which shall be forwarded by mail or otherwise distributed with a regular or special members' meeting notice to each member. The notice shall designate the time and place of the members' meeting at which the proposed amendment is to be considered and voted on by the members;
- (2) At a meeting where a quorum of the members is registered as being present or represented by alternative ballot, the proposed amendment shall be adopted:
  - (a) If approved by a majority of the votes cast; or

(b) For a cooperative with articles or bylaws requiring more than majority approval or other conditions for approval, the amendment is approved by a proportion of the votes cast or a number of total members as required by the articles or bylaws and the conditions for approval as set forth in the articles or bylaws, if any, have been satisfied.

2. (1) Upon approval of an amendment under subsection 1 of this section, articles of amendment shall then be prepared stating:

- (a) The name of the cooperative;
- (b) The effective date of the amendment, if the effective date is not the date of filing with the secretary of state;
- (c) The text of the amendment; and
- (d) A statement that the amendment has been duly authorized in accordance with the cooperative's articles and bylaws and sections 351.1000 to 351.1228.

(2) The articles of amendment shall be signed by an authorized officer of the cooperative or a member of the board.

3. The articles of amendment shall be filed with the secretary of state with a filing fee of twenty dollars, and provided such articles of amendment shall meet the requirements found in this section, shall be effective as of the date of filing, unless a later date is specified therein. Upon acceptance and filing by the secretary of state, the secretary of state shall stamp the articles of amendment as "Filed" and shall cause the issuance of a certificate of amendment, which shall then be forwarded to the party filing the articles of amendment and held and filed by the secretary of state with the records of the cooperative.

**351.1021. REVOCATION OF ERRONEOUS FILING AND CURATIVE DOCUMENTS, FEE. —** Upon notification that a filing by a cooperative has been made in error and receipt of a court order directing him or her to do so, the secretary of state shall revoke the erroneous filing and authorize a curative document to be filed. A filing fee of five dollars shall be charged for any such revocation and subsequent curative filing.

**351.1024. DATE OF EXISTENCE — PERPETUAL DURATION, EXCEPTION. — 1.** The existence of a cooperative shall commence when the articles are filed with the secretary of state, unless a later date is specified in the articles.

2. A cooperative shall have a perpetual duration unless the cooperative otherwise provides for a limited period of duration in the articles.

**351.1027. OFFICE AND AGENT REQUIREMENTS — CHANGE OF OFFICE OR AGENT, PROCEDURE — RESIGNATION OF AGENT, PROCEDURE — APPOINTMENT OF AGENT BY SECRETARY OF STATE, WHEN. — 1.** Each cooperative shall have and shall continuously maintain in this state:

(1) A registered office that may be, but need not be, the same as its place of business in this state, the mailing address of which shall not be a post office box; and

(2) A registered agent for service of any process, notice, or demand required or permitted by law to be served upon the cooperative, which may be either an individual resident in this state whose business office is identical with the registered office, or a domestic business entity or a foreign business entity authorized to transact business in this state having an office identical with the registered office.

2. A cooperative may from time to time change its registered office or registered agent, or both, upon filing in the office of the secretary of state, a statement setting forth:

- (1) The name of the cooperative;
- (2) The address, including street and number, of its then registered office;

(3) If the address of its registered office is to be changed, the address, including street and number, to which the registered office is to be changed, which address shall not be a post office box;

(4) The name of its then registered agent;

(5) If its registered agent is to be changed, the name of its successor registered agent, and the successor registered agent's written consent to the appointment either on the statement or attached thereto;

(6) That the address of its registered office and the address of the business office of its registered agent, as changed, will be identical; and

(7) That the change was authorized by the board in accordance with sections 351.1000 to 351.1228, the articles, or the bylaws.

3. The statement shall be signed by an officer or director and delivered to the secretary of state. If the secretary of state finds that the statement conforms to the provisions of this section, the secretary of state shall stamp the statement as "Filed", a copy of which shall be forwarded to the party filing the statement, and upon filing the change of address of the registered office or the appointment of a new registered agent or both, as the case may be, the statement shall be effective.

4. A cooperative shall change its registered agent if the office of its registered agent shall become vacant for any reason, if its registered agent becomes disqualified or incapable of acting, or if the cooperative revokes the appointment of its registered agent.

5. Any registered agent of a cooperative may resign as agent upon filing with the secretary of state a statement of resignation, on a form approved by the secretary of state, setting forth:

(1) The name of the cooperative;

(2) The address, including street and number, of the cooperative's then registered office;

(3) The name of such registered agent; and

(4) A representation that such registered agent has given written notice of such agent's resignation to an officer of the cooperative at the cooperative's last known business address.

The appointment of the agent shall terminate upon the first to occur of:

(a) The expiration of thirty days after receipt of notice by the secretary of state; or

(b) The appointment of a new registered agent by the cooperative as evidenced by the cooperative's filing of a statement as set forth in subsections 2, 3, and 4 of this section.

6. In the event that a cooperative shall fail to appoint or maintain a registered agent in this state or in the event the registered agent cannot be located in the exercise of due diligence, then the secretary of state shall be automatically appointed as an agent of the cooperative upon whom any process, notice, or demand required or permitted by law to be served upon the cooperative may be served. Service on the secretary of state of any process, notice, or demand against a cooperative shall be made by delivering to and leaving with the secretary of state, a copy of such process, notice, or demand. In the event that any process, notice, or demand is served on the secretary of state, the secretary of state shall immediately cause a copy thereof to be forwarded by registered mail to the address for any organizer as set forth in the articles. The secretary of state shall keep copies of any process, notice, or demand served upon the secretary of state under this section for a period of five years. Nothing contained in this section shall limit or affect the right to serve any process, notice, or demand, which is required or permitted by law to be served upon a cooperative, in any other manner now or hereafter permitted by law.

**351.1030. BYLAW REQUIREMENTS, ADOPTION, AMENDMENT — EMERGENCY BYLAWS PERMITTED.** — 1. A cooperative shall have bylaws governing the cooperative's business

affairs and structure; the qualifications, classification, rights, and obligations of its members; and the classifications, allocations, and distributions of membership interests, which are not otherwise provided in the articles or by sections 351.1000 to 351.1228.

2. (1) To the extent not stated in the articles, the bylaws shall state:

(a) The purpose of the cooperative;

(b) The capital structure of the cooperative, including a statement of the classes and relative rights, preferences, and restrictions granted to or imposed upon each class of membership interests, including the governance rights and financial rights afforded to each class of membership interests, and the cooperative's authority to issue membership interests, which may be determined by the board;

(c) The taxation structure of the cooperative, including a statement of the taxation classification of the cooperative as decided by the board. A cooperative may elect to be taxed as a corporation or as a partnership under sections 351.1000 to 351.1228;

(d) A provision designating the governance rights of each class of membership interests, including which membership interests have voting power and any limitations or restrictions on the voting power, which shall be in accordance with the provisions of sections 351.1000 to 351.1228;

(e) A statement that patron membership interests with voting power shall be restricted to one vote for each member regardless of the amount of patronage transacted with or for such member or the amount of patron membership interests held by a member in the affairs of the cooperative, or a statement describing such different allocation of voting power to the extent permitted under sections 351.1000 to 351.1228;

(f) A statement that membership interests held by a member are transferable only with the approval of the board or as provided in the bylaws;

(g) A statement as to how profits and losses will be allocated and cash will be distributed among the members;

(h) A statement that the records of the cooperative shall include patron membership interests and, if authorized, nonpatron membership interests, which may be further described in the bylaws.

(2) The bylaws may contain any provision relating to the management or regulation of the affairs of the cooperative that is not inconsistent with sections 351.1000 to 351.1228 or the articles, and which may include the following:

(a) The number of directors and the qualifications, manner of election, powers, duties, and compensation, if any, of directors;

(b) The qualifications of members and any limitations on their number;

(c) The manner of admission, withdrawal, suspension, and expulsion of members;

(d) Generally, the governance rights, financial rights, assignability of governance rights and financial rights, and other rights, privileges, and obligations of members and their membership interests;

(e) Authorization to permit a manager, which may be a person that is not otherwise related to the cooperative, to provide outside management services to the cooperative; and

(f) Any other provisions required by the articles to be in the bylaws.

3. Bylaws shall be adopted before the acceptance of any contributions to the cooperative by any member, except in the case of a conversion of a foreign business entity or domestic business entity to a cooperative, in which case the bylaws shall be adopted as soon as is practical following the filing of the articles.

4. The board may amend the bylaws at any time and without further approval by the members to add, change, or delete a provision or multiple provisions, unless:

(1) Sections 351.1000 to 351.1228, the articles, or the bylaws otherwise reserve the power exclusively to the members; or

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(2) A particular bylaw expressly prohibits the board from doing so and provided the members shall receive a notice and summary of the amendments or the actual amendments to the bylaws as adopted by the board.

5. The bylaws may be amended, including, but not limited to, the addition, deletion, or restatement of any bylaw or bylaws, by the members at a regular or special members' meeting if:

(1) The notice of the regular or special members' meeting contains a statement that the proposed amended bylaws will be voted upon at the meeting and copies of such proposed amended bylaws are included with the notice, or copies are available upon request from the cooperative and a summary statement of the proposed amended bylaw or bylaws are included with the notice;

(2) A quorum is registered at the members' meeting as being present or represented by mail or alternative ballot if the mail or alternative ballot is authorized by the board; and

(3) The proposed amended bylaw or bylaws are approved by a majority vote cast at the meeting, except that if a cooperative's articles or bylaws require more than majority approval or other conditions for approval, the proposed amended bylaw or bylaws shall only be approved by a proportion of the vote cast or a number of the total members as required by the articles or bylaws and any other such conditions for approval which are contained in the articles or bylaws have been satisfied.

6. (1) Unless otherwise provided in the articles or bylaws, the board may adopt emergency bylaws, at any time, to be effective only in the event of an emergency as provided in subdivision (4) of this subsection. The emergency bylaws, which are subject to amendment or repeal by the members, may include all provisions necessary for managing the cooperative during the emergency, including:

- (a) Procedures for calling a meeting of the board;
- (b) Quorum requirements for the meeting; and
- (c) Designation of additional or substitute directors.

(2) All provisions of the regular bylaws consistent with the emergency bylaws shall remain in effect during the emergency. The emergency bylaws shall not be effective after the emergency ends.

(3) Action taken in good faith in accordance with the emergency bylaws:

- (a) Binds the cooperative; and
- (b) Shall not be the basis for imposition of liability on any director, officer, employee, or agent of the cooperative on the grounds that the action was not an authorized action of the cooperative.

(4) An emergency exists for the purposes of this section, if a quorum of the directors cannot readily be obtained because of some catastrophic event.

**351.1033. RECORD-KEEPING REQUIREMENTS — EXAMINATION OF RECORDS, WHEN. —**

1. (1) A cooperative shall keep as permanent records, minutes of all meetings of its members and of the board, a record of all actions taken by the members or the board without a meeting, and a record of all waivers of notices of meetings of the members and of the board.

(2) A cooperative shall maintain appropriate accounting records.

(3) A cooperative shall keep a copy of each of the following records at its principal office:

(a) Its current articles and other governing instruments, and all amendments thereto or restatements thereof;

(b) Its current bylaws or other similar instruments, and all amendments thereto or restatements thereof;

(c) A record of the names and last known addresses of its current and past members in a form that allows preparation of an alphabetical list of members with each member's address;

(d) A list of the names and last known business addresses of its current board members and officers;

(e) All interim financial statements prepared for periods ending during the last fiscal year, and all year-end financial statements, if any, prepared for the previous four fiscal years; and

(f) Copies of all tax returns filed by the cooperative for the previous four tax years.

(4) Except as otherwise limited by sections 351.1000 to 351.1228, the board shall have discretion to determine what records are appropriate for the purposes of the cooperative, the length of time records are to be retained, and policies relating to the confidentiality, disclosure, inspection, and copying of the records of the cooperative.

(5) A cooperative shall maintain its records in written form or in another form, which may be electronic or otherwise paperless, so long as such form is capable of conversion into written form within a reasonable time.

2. Each member shall, at proper times and upon three days' prior written notice, have access to the books and records of the cooperative as identified in subdivisions (1) to (4) of subsection 1 of this section, to examine same, under such regulations and conditions as set forth in the bylaws or as otherwise set forth by the board. In all events, a member's demand to examine the books and records of the cooperative shall be in good faith and for a proper cooperative purpose, and in no event shall a member have the right to inspect or copy, if otherwise allowed, for any person other than the member, any records relating to the amount of any equity capital in the cooperative held by any person; any financial information or patronage history, including but not limited to, amounts of patronage done by or for a member or the amounts of patronage dividends received by such member; any accounts receivable or other amounts due to the cooperative from any person; any personnel or employment records related to the cooperative; any records subject to confidentiality agreements with third parties or under court order; any records deemed confidential under any federal, state, or municipal law, regulation, or ruling, including but not limited to, personal health information as defined under federal law; or any trade secret.

**351.1036. ADDITIONAL POWERS — ACT AS AGENT OF MEMBERS, WHEN — CONTRACTUAL AUTHORITY — PROPERTY RIGHTS — FINANCIAL RIGHTS — EMPLOYEE BENEFITS PERMITTED. — 1.** In addition to other powers, a cooperative as an agent or otherwise:

(1) May perform every act necessary or proper to conduct of the cooperative's business or accomplish the purposes of the cooperative;

(2) Has all other rights, powers, or privileges granted by the laws of this state to any business entity, except those that are inconsistent with the express provisions of sections 351.1000 to 351.1228; and

(3) Has the powers given in this section.

2. The cooperative may act as the agent of its members, either collectively or individually, in the negotiation for and procurement of all goods, services, and programs which may be provided to the members by or through the cooperative, provided, however, that unless the cooperative has affirmatively accepted responsibility, the cooperative shall have no liability for its members' failure, whether collective or individual, to perform or pay for such goods, services or programs.

3. A cooperative may enter into or become a party to a contract or agreement for the cooperative or for or on behalf of the members or patrons, including but not limited to,



contracts related to prices for and types of products, goods, or services to be supplied or sold to the members, goods manufactured and sold by the members through the cooperative, the management of the cooperative by a third party manager, and any other contract deemed by the board to be in the best interests of the cooperative or the members, or between the cooperative and its members.

4. (1) A cooperative may purchase and hold, lease, mortgage, encumber, sell, exchange, and convey as a legal entity, property of any kind including but not limited to real property, personal property, intellectual property, real estate, buildings, equipment, products, patents, and copyrights as the business of the cooperative may require, including the sale or other disposition of assets required by the business of the cooperative as determined by the board.

(2) A cooperative may take, receive, and hold real and personal property, including the principal and interest of money or other funds and rights in a contract, for any purpose not inconsistent with the purposes of the cooperative as set forth in its articles or bylaws, or as otherwise determined by the board.

5. A cooperative may own, lease, construct, and develop buildings or other structures or facilities on the property owned or leased by the cooperative or on a right-of-way legally acquired by the cooperative.

6. A cooperative may issue bonds, debentures, or other evidence of indebtedness and may borrow money, may secure any of its obligations by mortgage of or creation of a security interest in or other encumbrances or assignment of all or any of its property, or income, and may issue guarantees for any legal purpose.

7. A cooperative may make advances to its members or patrons on products or services delivered by the members or patrons to the cooperative.

8. A cooperative may accept donations or deposits of money, real property, or personal property from other cooperatives or associations from which it is constituted, and from members.

9. A cooperative may loan money to and borrow money from members, cooperatives, or associations from which it is constituted with security that it considers sufficient. A cooperative may invest and reinvest its funds.

10. A cooperative may pay pensions, retirement allowances, and compensation for past services to and for the benefit of and establish, maintain, continue, and carry out, wholly or partially at the expense of the cooperative, employee or incentive benefit plans, trusts, and provisions to or for the benefit of any or all of its and its related organizations' officers, managers, directors, employees, and agents; and in the case of a related organization that is a cooperative, members who provide services or goods to that cooperative, and any of their families, dependents, and beneficiaries. It may indemnify and purchase and maintain insurance for and on behalf of a fiduciary of any of these employee benefit and incentive plans, trusts, and provisions.

11. A cooperative may provide, directly or indirectly, insurance of any kind, including but not limited to disability insurance, health insurance, casualty insurance, unemployment insurance, life insurance, and other insurance to or for the benefit of any or all of its employees, officers, directors, members, managers, or their respective directors, officers, employees, and agents. The cooperative may own directly or indirectly, insurance of any kind, including but not limited to disability insurance, health insurance, casualty insurance, unemployment insurance, life insurance, and other insurance on any or all of its employees, officers, directors, members, managers, or their respective directors, officers, employees, and agents.

12. (1) A cooperative may purchase, acquire, hold, or dispose of the ownership interests of another business entity or form or otherwise organize subsidiary or affiliated

business entities, and assume all rights, interests, privileges, responsibilities, and obligations arising out of all such ownership interests.

(2) The cooperative may form special purpose business entities to secure and hold assets of the cooperative.

(3) A cooperative may purchase, own, and hold ownership interests, including stock and other equity interests, memberships, interests in nonstock capital, and evidences of indebtedness of any business entity.

**351.1039. EMERGENCY POWERS AND PROCEDURES — 1.** In anticipation of or during an emergency as provided in subsection 4 of this section, the board may:

(1) Modify lines of succession to accommodate for the incapacity of any director, officer, employee, or agent; and

(2) Relocate the principal office, designate alternative principal offices or regional offices, or authorize the officers to do so.

**2.** During an emergency as provided in subsection 4 of this section, unless the emergency bylaws provide otherwise:

(1) Notice of a meeting of the board need be given only to those directors to whom it is practicable to reach and may be given in any practicable manner, including by publication, radio, email, or other form of communication; and

(2) One or more officers of the cooperative present at a meeting of the board may be deemed to be directors for the meeting, in order of rank and within the same rank in order of seniority, as necessary to achieve a quorum.

**3.** Cooperative action taken in good faith during an emergency under this section to further the ordinary business affairs of the cooperative:

(1) Binds the cooperative; and

(2) Shall not be the basis for the imposition of liability on any director, officer, employee, or agent of the cooperative on the grounds that the action was not an authorized cooperative action.

**4.** An emergency exists for purposes of this section if a quorum of the directors cannot readily be obtained because of a catastrophic event.

**351.1042. GOVERNANCE BY BOARD REQUIRED — BOARD ACTION, REQUIREMENTS — THIRD-PARTY AGREEMENTS PERMITTED, WHEN. — 1.** A cooperative shall be governed by its board, which shall take all action for and on behalf of the cooperative, except those actions reserved or granted to a manager of the cooperative as set forth under sections 351.1000 to 351.1228 or reserved for or granted to the members under said sections, the articles, or bylaws.

**2.** Board action shall be by the affirmative vote of a majority of the directors voting at a duly called meeting where a quorum of directors is present, unless otherwise allowed under sections 351.1000 to 351.1228 or unless a greater majority is required by the articles or bylaws. A director individually or collectively with other directors shall not have authority to act for or on behalf of the cooperative unless authorized by the board.

**3.** Except as otherwise set forth in the articles or the bylaws, a director may advocate the interests of members or member groups to the board, but the fiduciary duty of each director is to represent the best interests of the cooperative and all members collectively.

**4.** Except as otherwise set forth in the articles or the bylaws, the board shall have the power to enter into, on behalf of the cooperative, an agreement with a third party whereby such third party may supply management services to the cooperative at the board's instruction, and upon the terms and conditions deemed satisfactory to the board.

**351.1045. MINIMUM NUMBER OF DIRECTORS — DIVISION INTO CLASSES PERMITTED.** — Except as otherwise set forth in the articles or bylaws, the board shall not have less than five directors, except that a cooperative with fifty or fewer members may have three or more directors as prescribed in the articles or bylaws. The directors of any cooperative organized under sections 351.1000 to 351.1228 may, by the articles or by the bylaws, be divided into such number of classes as set forth in the articles or bylaws. If the board shall be divided into classes, then the term of office of those of the initial first class shall expire at the first annual meeting of the members held after such classification becomes effective; of the second class, one year thereafter; of the third class, two years thereafter, and so on for each initial class; and at each annual election held after such classification becomes effective, directors shall be chosen for a full term, as the case may be, to succeed those whose terms expire, which terms shall, unless otherwise set forth in the articles or bylaws, be of a duration equal to the number of classes.

**351.1048. BOARD ELECTION, PROCEDURE — VOTING BY MAIL, PROCEDURE.** — 1. The organizers shall elect the first board to serve in accordance with subsection 2 of section 351.1009 until directors are elected by members. Until election by members, the first board shall appoint directors to fill any vacancies which may occur during such initial period.

2. (1) Directors shall be elected for the term at the time and in the manner provided in the articles, bylaws, or as otherwise set forth in sections 351.1000 to 351.1228.

(2) Except as otherwise set forth in the articles or bylaws, the directors need not be members, however, a majority of the directors shall be elected exclusively by the members holding patron membership interests.

(3) Each director of a cooperative not electing to be taxed as a partnership under sections 351.1000 to 351.1228 shall have one vote on each matter brought before the board. Unless otherwise set forth in the articles or bylaws, the voting authority of the directors may be allocated according to allocation units or equity classifications of the cooperative provided:

(a) That each allocation unit or equity classification shall have only one vote; and

(b) That at least one-half of the voting power on general matters of the cooperative shall be allocated to the directors elected by members holding patron membership interests.

(4) A director holds office for the term the director was elected and until a successor is elected and has qualified, or until the earlier death, resignation, removal, or disqualification of the director.

(5) The expiration of a director's term with or without election of a qualified successor shall not make the prior or subsequent acts of the director or the board void or voidable.

(6) Subject to any limitation in the articles or bylaws, the board may set the compensation of directors.

(7) Directors may be divided into or designated and elected by class or other distinction as provided in the articles or bylaws.

(8) A director may resign by giving written notice to the chair of the board or the board. The resignation is effective without acceptance when the notice is given to the chair of the board or the board unless a later effective time is specified in the notice.

(9) Unless otherwise set forth in the articles or bylaws, a director's position as such is personal to that director, and no director shall be entitled to execute any of such director's duties, including attending or voting at a directors' meeting by or through another person, entity or by proxy.

3. Except for directors elected at a special members' meeting to fill a vacancy, directors shall be elected at the regular members' meeting for the terms of office prescribed in the bylaws, which may be done by written consent in accordance with sections 351.1000 to 351.1228.

4. Unless otherwise set forth in the articles or bylaws, for a cooperative delineated by districts or other units, members may nominate and elect directors on a district or unit basis at a district meeting.

5. The following shall apply to voting by mail or alternative ballot:

(1) A member shall not vote for a director other than by being present at a members' meeting or by mail ballot or alternative ballot as authorized by the board;

(2) The ballot shall be in a form prescribed by the board; and

(3) If the ballot of the member is received by the cooperative on or before the date of the regular members' meeting or as otherwise prescribed for alternative ballots, the ballot shall be accepted and counted as the vote of the absent member.

6. Unless otherwise provided by the bylaws, if a member is not a natural person then the member may appoint or elect one or more natural persons to be eligible for election as a director.

**351.1051. VACANCY, HOW FILLED.** — 1. Unless otherwise provided in the articles or bylaws, if a director position which is elected by patron members becomes vacant or a new director position is created for a director that was or is to be elected by patron members, the board, in consultation with the directors elected by patron members, shall appoint a new director to fill the director's position until the next regular or special members' meeting at which a successor is elected. If there are no directors elected by patron members on the board at the time of the vacancy, a special members' meeting shall be called to fill the patron member director vacancy.

2. Unless otherwise provided in the articles or bylaws, if the vacating director was not elected by the patron members or a new director position is created, but which position is not subject to subsection 1 of this section, then the board shall appoint a director to fill the vacant position by majority vote of the remaining or then serving directors even though less than a quorum. At the next regular or special members' meeting, the members shall elect a director to replace the interim appointed director and fill the unexpired term of the vacant director's position.

**351.1054. REMOVAL OF DIRECTOR, PROCEDURE.** — 1. The provisions of this section apply unless modified by the articles or bylaws.

2. Any director of the cooperative may be removed by the action of the majority of the entire board if the director to be removed shall, at the time of removal, fail to meet the qualifications stated in the articles or bylaws for election as a director or shall be in breach of any agreement between such director and the cooperative, which includes, for board members which are also patrons, a breach of the cooperative agreement by such patron board member. Any director of the cooperative may be removed, with or without cause, by the unanimous vote of the remaining directors on the board. Notice of the proposed removal shall be given to all directors prior to any action thereon.

3. Subject to subsection 4 of this section, any one or all of the directors may be removed at any time, with or without cause, by the affirmative vote of the holders of a majority of the voting power of membership interests entitled to vote at an election of directors, provided that if a director has been elected solely by the patron members, by members based on districts or units, or the holders of a class or series of membership interests as stated in the articles or bylaws, then that director may be removed only by the affirmative vote of the holders of a majority of the voting power of the patron members for

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a director elected by the patron members, all membership interests in such district or unit if such director was originally elected by districts or units, or of all membership interests of that class or series entitled to vote at the election of that director.

4. Where the directors of a cooperative are divided into classes in accordance with section 351.1045, the members of a cooperative may remove a director for cause by the vote of a majority of all members eligible to vote on the election of such director.

5. Unless otherwise provided in the bylaws, new directors may be elected at a meeting at which directors are removed.

**351.1057. MEETINGS, CONFERENCES.** — 1. Meetings of the board may be held from time to time as provided in the articles or bylaws at any place within or without this state as the board may select or by any means described in subsection 2 of this section. If the board fails to select a place for a meeting, the meeting shall be held at the principal executive office of the cooperative, unless the articles or bylaws provide otherwise.

2. A conference among directors by any means of communication through which the directors may simultaneously hear each other during the conference constitutes a meeting of the board, if the same notice is given of the conference as would be required by subsection 3 of this section for a meeting, and if the number of directors participating in the conference would be sufficient to constitute a quorum at a meeting. Participation in a meeting by electronic means of communication constitutes presence in person at the meeting.

3. Unless the articles or bylaws provide for a different time period, a director may call a meeting of the board by giving at least ten days' prior written notice or, in the case of organizational meetings at least three days' prior written notice, to all directors of the date, time, and place of the meeting. Notice to the board members of any meeting may be given in such forms as set forth in section 351.1216. The notice need not state the purpose of the meeting unless sections 351.1000 to 351.1228, the articles, or the bylaws require it.

4. If the day or date, time, and place of a meeting of the board have been provided in the articles or bylaws, or announced at a previous meeting of the board, no further notice is required to be given to the members of the board. Notice of an adjourned meeting need not be given other than by announcement at the meeting at which adjournment occurs.

5. A director may waive notice of a meeting of the board. A waiver of notice by a director entitled to receive notice is effective whether given before, at, or after the meeting, and whether given in writing, orally, or by attendance. Attendance by a director at a meeting is a waiver of notice of that meeting, except where the director objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened and such director does not participate in the meeting after the objection is made.

6. If the articles or bylaws so provide, a director may give advance written consent or opposition to a proposal to be acted on at a meeting of the board. If the director is not present at the meeting, consent or opposition to a proposal shall not constitute presence for purposes of determining the existence of a quorum, but consent or opposition shall be counted as the vote of a director present at the meeting in favor of or against the proposal and shall be entered in the minutes or other record of action at the meeting, if the proposal acted on at the meeting is substantially the same or has substantially the same effect as the proposal to which the director has consented or objected.

**351.1060. QUORUM REQUIREMENTS.** — A majority, or a larger or smaller portion or number as provided in the articles or bylaws which in no event shall be less than one-third, of the directors currently holding office is a quorum for the transaction of business at a meeting of the board. In the absence of a quorum, a majority of the directors present may

adjourn a meeting from time to time until a quorum is present. If a quorum is present when a duly called or held meeting is convened, the directors present may continue to transact business until adjournment even though the withdrawal of a number of directors originally present leaves less than the proportion of number otherwise required for a quorum.

**351.1063. MAJORITY VOTE REQUIRED, WHEN.** — The board shall take action by the affirmative vote of the majority of directors present at a duly held meeting at which a quorum is present, unless otherwise provided in sections 351.1000 to 351.1228, the articles, or bylaws.

**351.1066. WRITTEN ACTION PERMITTED, WHEN, PROCEDURE.** — 1. If the articles or bylaws so provide, any action, other than an action requiring member approval, may be taken by written action signed by the number of directors which would be required to take the same action at a meeting of the board under section 351.1063. If the articles or bylaws do not otherwise provide, then an action required or permitted to be taken at a meeting of the board may be taken by written action if signed by at least a majority of all of the directors.

2. The written action is effective when signed by the required number of directors, unless a different effective time is provided in the written action.

3. When written action is permitted to be taken by less than all directors, all directors shall be notified within a reasonable amount of time of its text and effective date. Failure to provide the notice shall not invalidate the written action. A director who does not sign or consent to the written action has no liability for the action or actions taken by the written action.

**351.1069. COMMITTEES, PROCEDURE FOR MEETINGS, MINUTES — COMMITTEE MEMBERS CONSIDERED DIRECTORS.** — 1. Unless otherwise set forth in the articles or bylaws:

(1) Committees may be established under a resolution approved by the affirmative vote of a majority of the board. All committees so formed are subject at all times to the direction and control of the board, and may only act with respect to such issues and to the extent authorized by the board. The board may create a litigation committee consisting of one or more independent directors or other independent persons to consider legal rights or remedies of the cooperative, and whether such rights or remedies should be pursued. The committee shall not be subject to the direction or control of the board. Unless otherwise set forth in the articles or bylaws, committee members need not be directors of the cooperative;

(2) The procedures for meetings of the board apply to committees and members of committees to the same extent as sections 351.1057 to 351.1066 apply to the board and individual directors;

(3) Minutes, if any, of committee meetings, other than the litigation committee shall be made available upon request to members of the committee, and to any director who requests such minutes, but only to the extent that such director's request relates to his or her position as a director and the director's intended use of the committee minutes is to further the cooperative's purposes.

2. The establishment of, delegation of authority to, and action by a committee shall not alone constitute compliance by a director with the standard of conduct set forth in section 351.1072.

3. Committee members are considered to be directors for purposes of sections 351.1072, 351.1075, and 351.1081, except that independent members of a committee which

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are not directors or employees of the cooperative are not subject to subsection 4 of section 351.1072.

**351.1072. DISCHARGE OF DUTIES, DIRECTORS. — 1.** A director shall discharge the duties of the position of director in good faith, in a manner the director reasonably believes to be in the best interests of the cooperative, and with the care that an ordinary, prudent person in a like position would exercise under similar circumstances. A person who so performs such person's duties is not liable by reason of being or having been a director of the cooperative.

**2. (1)** A director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, relating to cooperative matters in each case prepared or presented by one or more of the following:

(a) One or more officers or employees of the cooperative who the director reasonably believes to be reliable and competent in the matters presented;

(b) Counsel, public accountants, or other persons as to matters that the director reasonably believes are within the person's professional or expert competence; or

(c) A committee of the board upon which the director does not serve, duly established by the board, as to matters within its designated authority, if the director reasonably believes the committee to merit confidence.

**(2)** A director is not relieved of liability for acts based on such director's reliance on information under subdivision (1) of this subsection where such director has knowledge that makes such reliance unwarranted.

**3.** A director who is present at a meeting of the board when an action is approved by the directors in accordance with section 351.1063 is presumed to have assented to the action approved, unless the director:

(1) Objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened and does not participate in the meeting after the objection, in which case the director is not considered to be present at the meeting for any purpose of sections 351.1000 to 351.1228;

(2) Votes against the action at the meeting; or

(3) Is prohibited by a conflict of interest from voting on the action.

**4.** A director's first duty of loyalty is to the cooperative. A director is under a duty to share all of such director's knowledge and opportunities that arise with respect to or are related to the business of the cooperative first to the cooperative, and if the cooperative shall choose not to act on such information or opportunity, then, unless otherwise directed by the cooperative, such director may exploit such information or opportunity for such director's own gain.

**351.1075. CONTRACTS AND TRANSACTIONS, NOT VOIDABLE FOR MATERIAL FINANCIAL INTEREST OF DIRECTOR, WHEN. — 1. (1)** A contract or other transaction between a cooperative and one or more of its directors, or a cooperative and a business entity where one or more of the cooperative's directors is a director, manager, officer, or legal representative of such business entity or where a director has a material financial interest, is not void or voidable because the director or directors or the other business entity is a party thereto or because the director or directors are present at the meeting of the members or the board or a committee at which the contract or transaction is authorized, approved, or ratified, if:

(a) The contract or transaction was, and the person asserting the validity of the contract or transaction sustains the burden of establishing that the contract or transaction was, fair and reasonable as to the cooperative at the time it was authorized, approved, or ratified and:

a. The material facts as to the contract or transaction and as to the director's or directors' interest are disclosed or known to the members; or

b. The material facts as to the contract or transaction and as to the director's or directors' interest are fully disclosed or known to the board or a committee, and the board or committee authorizes, approves, or ratifies the contract or transaction in good faith by a majority of the board or committee, as the case may be, but the interested director or directors are not counted in determining the presence of a quorum and shall not vote; or

(b) The contract or transaction is a distribution, contract, or transaction that is made available on the same terms to all members or patron members as part of the cooperative's business; or

(c) The contract or transaction is for services provided to the cooperative which services were deemed necessary by the board, or a committee, or the chief executive officer, or the president and the contract to provide such services is no less favorable to the cooperative than such an agreement would be with a person who is not a member of the board negotiated at arm's length at a cost not more than the reasonable fair market value for the same services charged by other providers.

(2) A resolution fixing the compensation of a director as a director, officer, employee, or agent of the cooperative is not void or voidable or considered to be a contract or other transaction between the cooperative and one or more of its directors for purposes of this section even though the director receiving the compensation fixed by the resolution is present and voting at the meeting of the board or a committee at which the resolution is authorized, approved, or ratified or even though other directors voting upon the resolution are also receiving compensation from the cooperative.

(3) If a committee is appointed to authorize, ratify, or approve a contract or transaction under this section, the members of the committee shall not have a conflict of interest with respect to such contract or transaction and shall be charged with representing the best interests of the cooperative.

2. For purposes of this section, a director has a material financial interest in each contract or transaction in which the director or the spouse, parents, children and spouses of children, brothers and sisters and spouses of brothers and sisters, and the brothers and sisters of the spouse of the director or any combination of them have a material financial interest. For purposes of this section, a contract or other transaction between a cooperative and the spouse, parents, children and spouses of children, brothers and sisters and spouses of brothers and sisters, and the brothers and sisters of the spouse of a director or any combination of them, is considered to be a transaction between the cooperative and the director.

**351.1078. PERSONAL LIABILITY OF DIRECTORS, LIMITATIONS.** — 1. A director's personal liability to the cooperative or members for monetary damages for breach of fiduciary duty as a director may be eliminated or limited in the articles or bylaws except as provided in subsection 2 of this section.

2. The articles or bylaws shall not eliminate or limit the liability of a director:

(1) For a breach of the director's duty of loyalty to the cooperative or its members;

(2) For acts or omissions that are not in good faith and involve intentional misconduct by the director;

(3) For illegal distributions;

(4) For a transaction from which the director derived an improper personal benefit;

or

(5) For an act or omission occurring before the date when the provision in the articles or bylaws eliminating or limiting liability becomes effective.



**351.1081. DEFINITIONS — INDEMNIFICATION OF FORMER OFFICIALS, WHEN — LIABILITY INSURANCE PERMITTED, WHEN. — 1.** The definitions in this subsection apply to this section.

**2. (1)** "Cooperative" includes a domestic or foreign cooperative that was the predecessor of the cooperative referred to in this section in a merger or other transaction in which the predecessor's existence ceased upon consummation of the transaction.

**(2)** "Official capacity" means:

**(a)** With respect to a director, the position of director in a cooperative;

**(b)** With respect to a person other than a director, the elective or appointive office or position held by the person, member of a committee of the board, the employment relationship undertaken by an employee of the cooperative, or the scope of the services provided by members who provide services to the cooperative; and

**(c)** With respect to a director, chief executive officer, member, or employee of the cooperative who, while a member, director, chief executive officer, or employee of the cooperative, is or was serving at the request of the cooperative or whose duties in that position involve or involved service as a director, manager, officer, member, partner, trustee, employee, or agent of another organization or employee benefit plan, the position of that person as a director, manager, officer, member, partner, trustee, employee, or agent, as the case may be, of the other organization or employee benefit plan.

**(3)** "Proceeding" means a threatened, pending, or completed civil, criminal, administrative, arbitration, or investigative proceeding, including a proceeding by or in the right of the cooperative.

**3. (1)** Subject to the provisions of subsection 5 of this section, a cooperative may indemnify a person made or threatened to be made a party to a proceeding by reason of the former or present official capacity of the person against judgments, penalties, fines, including, without limitation, excise taxes assessed against the person with respect to an employee benefit plan, settlements, and reasonable expenses, including attorney fees and disbursements incurred by the person in connection with the proceeding, if, with respect to the acts or omissions of the person complained of in the proceeding, the person:

**(a)** Has not been indemnified, or if indemnified, then not fully indemnified by another organization or employee benefit plan for the same judgments, penalties, fines, including, without limitation, excise taxes assessed against the person with respect to an employee benefit plan, settlements, and reasonable expenses, including attorney fees and disbursements incurred by the person in connection with the proceeding with respect to the same acts or omissions;

**(b)** Acted in good faith;

**(c)** Received no improper personal benefit and the person has not committed an act for which liability cannot be eliminated or limited under subsection 2 of section 351.1078;

**(d)** In the case of a criminal proceeding, had no reasonable cause to believe the conduct was unlawful; and

**a.** In the case of acts or omissions occurring in the official capacity described in paragraphs (a) and (b) of subdivision (2) of subsection 1 of this section, reasonably believed that the conduct was in the best interests of the cooperative, or in the case of acts or omissions occurring in the official capacity described in paragraph (c) of subdivision (2) of subsection 1 of this section, reasonably believed that the conduct was not opposed to the best interests of the cooperative. If the person's acts or omissions complained of in the proceeding relate to conduct as a director, officer, trustee, employee, or agent of an employee benefit plan, the conduct is not considered to be opposed to the best interests of the cooperative if the person reasonably believed that the conduct was in the best interests of the participants or beneficiaries of the employee benefit plan; or

b. Was not at the time of the acts or omissions complained of in the proceeding, a director, chief executive officer, or person possessing, directly or indirectly, the power to direct or cause the direction of the management or policies of the cooperative.

(2) The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent does not, of itself, establish that the person did not meet the criteria set forth in this section.

4. Subject to the provisions of subsection 5 of this section, if a person is made or threatened to be made a party to a proceeding, such person shall be entitled, upon written request to the board, to payment or reimbursement by the cooperative of reasonable expenses, including attorney fees and disbursements incurred by the person in advance of the final disposition of the proceeding, provided that:

(1) Upon receipt by the cooperative of a written affirmation by the person of a good faith belief that the criteria for indemnification set forth in subsection 3 of this section has been satisfied, such person makes a written undertaking, in a form acceptable to the cooperative, to repay all amounts paid or reimbursed by the cooperative, if it is ultimately determined that the criteria for indemnification have not been satisfied, which written undertaking is an unlimited general obligation of the person making it, but need not be secured and may be accepted without reference to financial ability to make payment; and

(2) Those making the determination determine that the facts then known would not preclude indemnification under subsection 3 of this section.

5. The articles or bylaws may prohibit indemnification or advances of expenses otherwise required by this section or may impose conditions on indemnification or advances of expenses in addition to the conditions contained in subsections 3 and 4 of this section, including, without limitation, monetary limits on indemnification or advances of expenses if the conditions apply equally to all persons or to all persons within a given class. A prohibition or limit on indemnification or advances of expenses shall not apply to or affect the right of a person to indemnification or advances of expenses with respect to any acts or omissions of the person occurring before the effective date of a provision in the articles or the date of adoption of a provision in the bylaws establishing the prohibition or limit on indemnification or advances of expenses.

6. This section shall not require or limit the ability of a cooperative to reimburse expenses, including attorney fees and disbursements, incurred by a person in connection with an appearance as a witness in a proceeding at a time when the person has not been made or threatened to be made a party to a proceeding.

7. Unless otherwise set forth in the articles or bylaws, all determinations whether indemnification of a person is required because the criteria set forth in subsection 4 of this section has been satisfied and whether a person is entitled to payment or reimbursement of expenses in advance of the final disposition of a proceeding as provided in subsection 3 of this section shall be made:

(1) By a majority of the board at a meeting where a quorum is present, provided that the directors who are, at the time, parties to the proceeding are not counted for determining either a majority or the presence of a quorum;

(2) If a quorum of the board under subdivision (1) of this subsection cannot be obtained, then by a majority of a committee of the board consisting solely of two or more directors who are not, at the time, parties to the proceeding, but who are duly designated to make such a determination by a majority of the board, which majority includes directors who are, at the time, parties to the proceeding;

(3) If a determination is not made under subdivisions (1) or (2) of this subsection, then by legal counsel selected either by a majority of the board in the manner set forth in subdivision (1) of this subsection, provided a quorum can be obtained, or by a committee by vote in the manner set forth in subdivision (2) of this subsection, provided a committee

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can be established by a majority of the board, including directors who are parties to the proceeding; or

(4) If a determination is not made under subdivisions (1) to (3) of this subsection inclusive, then by the affirmative vote of the members, but the membership interests held by parties to the proceeding shall not be counted in determining the presence of a quorum, and are not considered to be present and entitled to vote on the determination.

8. A cooperative may purchase and maintain insurance on behalf of a person in that person's official capacity against any liability asserted against and incurred by the person in or arising from that person's official capacity, whether or not the cooperative would have been required to indemnify the person against the liability under the provisions of this section.

9. Nothing in this section shall be construed to limit the power of the cooperative to indemnify persons other than a director, chief executive officer, member, employee, or member of a committee of the board by contract or otherwise.

**351.1084. ELECTION OF OFFICERS — CHIEF EXECUTIVE OFFICER PERMITTED. — 1.** Unless otherwise set forth in the articles or bylaws:

(1) The board may elect a chair and one or more vice chairs of the board to hold and lead meetings of the board; and

(2) The board shall elect or appoint a president and secretary to serve as officers of the cooperative;

(3) The officers, other than the chief executive officer, president and secretary shall not have the authority to bind the cooperative except as authorized by the board.

2. The board may elect additional officers as the articles or bylaws authorize or require.

3. The offices of president and secretary may be combined, and the same person may serve in both capacities.

4. The board may employ a chief executive officer to manage the day-to-day affairs and business of the cooperative, and if a chief executive officer is employed, the chief executive officer shall have the authority to implement the functions, duties, and obligations of the cooperative except as restricted by the board or as delegated to a manager. The chief executive officer shall not exercise authority reserved to the board, a manager, the members, the articles, or the bylaws. Nothing contained herein shall limit the cooperative's right to have co-chief executive officers.

**351.1087. MEMBERSHIP OF COOPERATIVES, REQUIREMENTS — MEMBERSHIP INTERESTS, AUTHORIZATION AND ISSUANCE. — 1.** A cooperative shall have one or more members.

2. (1) A cooperative may, but is not obligated to, group members and patron members in districts, units, or on another basis if and as authorized in its articles or bylaws.

(2) The board may, but is not obligated to, implement the use of districts or units, including setting the time and place and prescribing the rules of conduct for holding meetings by districts or units to elect delegates to members' meetings.

3. A membership interest is personal property. A member has no interest in specific property of the cooperative. All property of the cooperative is property of the cooperative itself.

4. The authorized amounts and divisions of patron membership interests and, if authorized, nonpatron membership interests, to be issued by the cooperative may be increased, decreased, established, or altered, in accordance with the bylaws, articles, and sections 351.1000 to 351.1228.

5. Authorized membership interests may be issued on terms and conditions prescribed in the articles, bylaws, or if not authorized in the articles or bylaws, as determined by the board. A membership interest may not be issued until the subscription price of the membership interest has been paid in money or property provided that the value of any property to be contributed shall be approved and agreed to by the board.

6. Unless otherwise set forth in the articles or bylaws, the patron membership interests collectively shall have not less than fifty percent of the cooperative's financial rights.

7. Except as otherwise set forth in the articles or bylaws, all the patron membership interests of a cooperative shall:

(1) Be of one class, without series, unless the articles or bylaws establish or authorize the board to establish more than one class or one or more series within classes;

(2) Be ordinary patron membership interests, be entitled to vote as provided in sections 351.1000 to 351.1228, and have equal rights and preferences in all matters not otherwise provided for by the board and to the extent that the articles or bylaws have fixed the relative rights and preferences of different classes and series; and

(3) Share profits and losses and be entitled to distributions as provided in sections 351.1000 to 351.1228.

8. The cooperative may solicit and issue nonpatron membership interests on terms and conditions determined by the board, and as otherwise set forth in the articles or bylaws.

9. Except as otherwise set forth in the bylaws, a member is not, merely on account of that status, personally liable for the acts, debts, liabilities, or obligations of a cooperative, and as such, a member's membership interest is nonassessable. A member is liable to the cooperative for any unpaid subscription for the membership interest, unpaid membership fees, or a debt for which the member has separately contracted with the cooperative, provided that no third party shall be a beneficiary of this obligation or be entitled to enforce this obligation.

**351.1090. DIVISION OF MEMBERSHIP INTERESTS, CLASSES OR SERIES. — 1.** Without limiting the authority granted in this section, and unless otherwise stated in the articles or bylaws, a cooperative may divide the membership interests into different classes or series, which may:

(1) Be subject to the right of the cooperative to redeem any of such membership interests at a price fixed by the articles, bylaws, or by resolution of the board;

(2) Entitle the members to cumulative, partially cumulative, or noncumulative distributions;

(3) Have preference over any class or series of membership interests for the payment of distributions of any or all kinds;

(4) Be convertible into membership interests of any other class or any series of the same or another class; or

(5) Have full, partial, or no voting rights, except as otherwise provided in sections 351.1000 to 351.1228.

2. The cooperative, through its articles or bylaws, may create different classes or series of membership interests and may fix the relative rights and preferences of such classes or series, or subject to any restrictions in the articles or bylaws, the board may establish different classes or series of membership interests by a duly adopted resolution which sets forth the designation of such classes or series, and fixes the relative rights and preferences of such classes or series. Any of the rights and preferences of a class or series of membership interests established in the articles, bylaws, or by resolution of the board:

(1) May be made dependent upon facts ascertainable outside the articles or bylaws or outside the resolution or resolutions establishing the class or series, if the manner in which the facts operate upon the rights and preferences of the class or series is clearly and expressly set forth in the articles or bylaws or in the resolution or resolutions establishing the class or series; and

(2) May include by reference some or all of the terms of any agreements, contracts, or other arrangements entered into by the cooperative in connection with the establishment of the class or series if the cooperative retains at its principal executive office, a copy of the agreements, contracts, or other arrangements or the portions thereof which are included by reference.

**351.1093. CERTIFIED AND UNCERTIFIED MEMBERSHIP INTERESTS, REQUIREMENTS. —**

1. The membership interests of a cooperative shall be either certificated or uncertificated as set forth in the articles or bylaws or as determined by the board. Each holder of a certificated membership interest or interests are entitled to a certificate of membership interest to be issued by the cooperative in accordance with this section.

2. Certificates of membership shall be signed by at least one officer of the cooperative as authorized in the articles, bylaws, or by resolution of the board or, in the absence of such an authorization, by the chief executive officer, president, secretary, or chairman of the board.

3. If a person signs a certificate while such person is an authorized signatory under subsection 2 of this section, the certificate may be issued by the cooperative, even if such person has ceased to have that capacity before the certificate is actually issued, with the same effect as if the person had that capacity at the date of its issue.

4. If issued, a certificate representing a membership interest or interests of a cooperative shall contain on its face:

- (1) The name of the cooperative;
- (2) A statement that the cooperative is organized under the laws of this state and sections 351.1000 to 351.1228;
- (3) The name of the person to whom the certificate is issued;
- (4) The number and class of membership interests, and the designation of the series, if any, that the certificate represents;
- (5) A statement that the membership interests in the cooperative are subject to the articles and bylaws of the cooperative; and
- (6) Restrictions on transfer, if any, including approval of the board, first rights of purchase by the cooperative, and other restrictions on transfer, which may be stated by reference to the back of the certificate where such restrictions may be listed or to another document.

5. A certificate signed as provided in subsection 2 of this section is prima facie evidence of the ownership of the membership interests referred to in the certificate.

6. Unless uncertificated membership interests are prohibited by the articles or bylaws, a resolution approved by the board may provide that some or all of any or all classes and series of its membership interests will be uncertificated membership interests. The resolution shall not apply to membership interests represented by a certificate until the certificate is surrendered to the cooperative. Within a reasonable time after the issuance or transfer of uncertificated membership interests to a member, the cooperative shall send such member the information required by this section to be stated on certificates. Except as otherwise expressly provided by the articles, bylaws, or sections 351.1000 to 351.1228, the rights and obligations of the holders of certificated and uncertificated membership interests of the same class and series shall be identical.

**351.1096. ISSUANCE OF NEW CERTIFICATES OF MEMBERSHIP FOR DESTROYED, LOST, OR STOLEN CERTIFICATES. — 1.** A new certificate of membership interest may be issued under section 351.1093 in the place of one that is alleged to have been lost, stolen, or destroyed, upon the filing of an affidavit of lost, stolen, or destroyed certificate by the member with the secretary of the cooperative.

**2.** The issuance of a new certificate under this section shall not constitute an overissue of the membership interests it represents, and upon any such issue, the replaced certificate shall without further action become null and void.

**351.1099. ANNUAL MEETING REQUIREMENTS. — 1.** The regular members' meeting shall be held annually at a time determined by the board, unless otherwise provided for in the bylaws.

**2.** The regular members' meeting shall be held at the principal place of business of the cooperative or at another location as determined by the bylaws or the board.

**3.** The officers shall submit reports to the members at the regular members' meeting covering the business of the cooperative for the previous fiscal year, including the financial condition of the cooperative as of the close of the previous fiscal year.

**4.** Unless otherwise set forth in sections 351.1000 to 351.1228, the articles, or the bylaws, all directors shall be elected at the regular members' meeting for the terms of office prescribed in the bylaws, except for directors elected at district or unit meetings.

**5. (1)** The cooperative shall give notice of regular members' meetings in accordance with section 351.1216 at least two weeks before the date of the meeting or mailed at least fifteen days before the date of the meeting.

**(2)** The notice shall contain a summary of any amendments to, or restatements of, any bylaw or bylaws adopted by the board since the last annual members' meeting.

**6.** A member may waive notice of a members' meeting. A waiver of notice by a member entitled to receive notice is effective whether given before, at, or after the meeting, and whether given in writing, orally, or by attendance. Attendance by a member at a members' meeting is a waiver of notice of that meeting, except where the member objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened, or objects before a vote on an item of business because the item may not lawfully be considered at that meeting and does not participate in the consideration of the item at that meeting.

**351.1102. SPECIAL MEMBERS' MEETINGS, WHEN, REQUIREMENTS. — 1.** Except as otherwise set forth in the bylaws, special members' meetings may be called by:

**(1)** One or more of the members of the board; or

**(2)** The written petition, submitted to the chairman of the board, of at least twenty percent of the patron members or, if authorized, twenty percent of the nonpatron members, twenty percent of all members, or members representing twenty percent of the membership interests collectively.

**2.** The cooperative shall give notice of a special members' meeting in accordance with section 351.1216 and shall state the time, place, and purpose of the special members' meeting. A special members' meeting notice shall be issued within ten days after the date of the presentation of a members' petition and the special members' meeting shall be held within thirty days after the date of the presentation of the members' petition.

**3.** A member may waive notice of a special members' meeting. A waiver of notice by a member entitled to notice is effective whether given before, at, or after the meeting, and whether given in writing, orally, or by attendance. Attendance by a member at a meeting is a waiver of notice of that meeting, except where the member objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or

convened, or objects before a vote on an item of business because the item may not lawfully be considered at that meeting and does not participate in the consideration of the item at that meeting.

**351.1105. QUORUM, HOW CONSTITUTED. — 1.** Unless otherwise set forth in the articles or bylaws, the quorum for a members' meeting to transact business shall be ten percent of the total number of members of the cooperative. The total number of members required for a quorum may be more, but in no case less, than ten percent, as set forth in the articles or bylaws.

**2.** In determining whether a quorum is present with respect to a particular question submitted to a vote of the members for which voting by mail or alternative ballot has previously been authorized, members present in person or represented by mail vote or the alternative ballot method shall be counted. The presence of a quorum shall be verified by the chairman of the board or the secretary of the cooperative and shall be reported in the minutes of the meeting.

**3.** An action by the members shall not be valid or legal in the absence of a quorum at the meeting at which the action was taken.

**351.1108. MEETINGS, REMOTE COMMUNICATION PERMITTED, REQUIREMENTS. — 1.** To the extent authorized in the articles or the bylaws or as determined by the board, a regular or special members' meeting may be held by any combination of means of remote communication through which the members may participate in the meeting if notice of the meeting was given in accordance with the bylaws and sections 351.1000 to 351.1228 and if the membership interests held by the members so participating in the meeting would be sufficient to constitute a quorum at a meeting. Participation by a member by means of remote communication constitutes presence at the meeting in person or by proxy if all the other requirements of sections 351.1000 to 351.1228 for the meeting are met.

**2.** In any members' meeting held where one or more members participates in such meeting by means of remote communication under subsection 1 of this section:

(1) The cooperative shall implement reasonable measures to verify that each person deemed present and entitled to vote at the meeting by means of remote communication is a member; and

(2) The cooperative shall implement reasonable measures to provide each member participating by means of remote communication with a reasonable opportunity to participate in the meeting, including an opportunity to:

(a) Read or hear the proceedings of the meeting substantially concurrently with those proceedings;

(b) If allowed by the procedures governing the meeting, have the member's remarks heard or read by other participants in the meeting substantially concurrently with the making of those remarks; and

(c) If otherwise entitled, vote on matters submitted to the members.

**3.** Waiver of notice by a member of a meeting by means of authenticated electronic communication may be given in the manner provided for the regular or special members' meeting. Participation in a meeting by means of remote communication described in subsection 1 of this section is a waiver of notice of that meeting, except where the member objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened, or objects before a vote on an item of business because the item may not lawfully be considered at the meeting and does not participate in the consideration of the item at that meeting.

**351.1111. MAJORITY VOTE OF MEMBERS REQUIRED, WHEN. — 1.** Unless otherwise required by sections 351.1000 to 351.1228, the articles, or bylaws, the members shall take action by the affirmative vote of the members of a majority of the voting power of the membership interests present and entitled to vote on that item of business at a duly called members' meeting where a quorum is present.

2. Unless otherwise required in the articles or bylaws, in any case where a class or series of membership interests is entitled to vote on a particular matter of the cooperative as a class or series by sections 351.1000 to 351.1228, the articles, bylaws, or by the terms of such membership interests, then such matter shall also receive, in addition to the affirmative vote required in subsection 1 of this section, the affirmative vote of a majority of the voting power of the membership interests of such class or series at a duly called meeting where a quorum of such class or series is present.

3. (1) The articles or bylaws may provide for a greater quorum or voting requirement for members or voting groups than is provided for by sections 351.1000 to 351.1228.

(2) An amendment to the articles or bylaws that adds, changes, or deletes a greater quorum or voting requirement shall meet the same quorum requirement and be adopted by the same vote and voting groups required to take action under the quorum and voting requirements then in effect.

**351.1114. WRITTEN ACTION PERMITTED, WHEN, REQUIREMENTS. — 1.** If the articles or bylaws so provide, any action may be taken by written action signed, or consented to by authenticated electronic communication, by the members who own voting power equal to the voting power required to take the same action at a members' meeting at which a quorum of members were present. If the articles or bylaws do not so provide, an action required or permitted to be taken at a members' meeting may be taken by written action signed, or consented to by authenticated electronic communication by all of the members.

2. The written action shall be effective when signed or consented to by authenticated electronic communication by the required number of members unless a different effective time is provided in the written action.

3. When written action is permitted to be taken by less than all members, all members shall be notified within a reasonable time of its text and effective date. Unless otherwise provided in the bylaws, a member who does not sign or consent to the written action has no liability for the action or actions taken by the written action.

**351.1117. PATRON MEMBERS, VOTING RIGHTS AND REQUIREMENTS. — 1.** A patron member of a cooperative is entitled to one vote on an issue to be voted upon by patron members, except that if authorized in the articles or bylaws, a patron member may be entitled to additional votes based on patronage criteria as described in section 351.1120. On any matter of the cooperative, an affirmative vote of all patron members entitled to vote on such matter, unless a greater or lesser amount is required by sections 351.1000 to 351.1228, the bylaws, or the articles, shall be binding on all patron members. A nonpatron member has the voting rights in accordance with his or her nonpatron membership interest as granted in the articles or bylaws, subject to the provisions of sections 351.1000 to 351.1228.

2. Unless otherwise set forth in the articles or bylaws, a member's vote at a members' meeting shall be in person, by mail, if a mail vote is authorized by the board, by alternative ballot if authorized by the board, or by proxy as set forth in subsection 3 of this section.

3. Unless otherwise set forth in the articles or bylaws:

(1) All proxies shall be in writing and executed by the member issuing such proxy, or such member's attorney in fact. Such proxy shall be filed with the chairman of the board

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before or at the time of a meeting in order to be effective at that meeting. No proxy shall be valid after eleven months from the date of its execution unless otherwise provided in the proxy. No appointment is irrevocable unless the appointment is coupled with an interest in the membership interests of the cooperative;

(2) A copy, facsimile, or other reproduction of the original written proxy may be substituted or used in lieu of the original written proxy for any purpose for which the original written proxy could be used, if the copy, facsimile, or other reproduction is a complete and legible reproduction of the entire original written proxy;

(3) An appointment of a proxy for membership interests owned jointly by two or more members is valid if signed by any one of those members, unless the cooperative receives from any one of those members written notice either denying the authority of that person to appoint a proxy or appointing a different proxy, in which case the proxy will be deemed invalid. If the cooperative shall receive conflicting proxies signed by the different owners of the membership interests, then all proxies submitted for such membership interests will be deemed invalid;

(4) An appointment may be terminated at will unless the appointment is coupled with an interest, in which case it shall not be terminated except in accordance with the terms of an agreement, if any, between the parties to the appointment. Termination may be made by filing written notice of the termination of the appointment with the cooperative or by filing a new written appointment of a proxy with the cooperative. Termination in either manner revokes all prior proxy appointments and is effective when filed with the cooperative.

4. (1) A cooperative may provide in the articles or bylaws that units, districts, or other type of classification authorized under sections 351.1000 to 351.1228 of members are entitled to be represented at members' meetings by delegates chosen by the members of such unit, district, or other classification. The delegates may vote on matters at the members' meeting in the same manner as a member. The delegates may only exercise the voting rights on a basis and with the number of votes as prescribed in the articles or bylaws.

(2) If the approval of a certain portion of the members is required for adoption of amendments, a dissolution, a merger, a consolidation, or a sale of assets, the votes of delegates shall be counted as votes by the members represented by the delegate.

5. The board may fix a record date not more than sixty days, or a shorter time period as provided in the articles or bylaws, before the date of a members' meeting as the date for the determination of the owners of membership interests entitled to notice of and entitled to vote at a meeting. When a record date is so fixed, only members on that date are entitled to notice of and permitted to vote at that members' meeting.

6. The articles or bylaws may give or prescribe the manner of giving a creditor, security holder, or other nonmember, other than a vote by proxy under subsection 3 of this section or as otherwise allowed under section 351.1123, governance rights in the cooperative. If not otherwise provided in the articles or bylaws or by sections 351.1000 to 351.1228, creditors, security holders, or other nonmembers shall not have any governance rights in the cooperative.

7. Membership interests owned by two or more persons may be voted by any one of such persons unless the cooperative receives written notice from any one of such persons denying the authority of the other person or persons to vote those membership interests, in which case any vote of such membership interests shall be deemed invalid. Jointly owned membership interests shall have one vote, regardless of the number of owners, unless otherwise provided under subsection 1 of this section, the articles, or the bylaws. If the cooperative receives conflicting votes for the same membership interests, then all votes cast by such membership interests will be deemed invalid.

8. Except as provided in subsection 7 of this section, an owner of a nonpatron membership interest or a patron membership interest with more than one vote may vote any portion of the membership interest in any way the member chooses, provided that such member is entitled to vote on the particular matter at issue. If a member votes without designating the proportion voted in a particular way, the member is considered to have voted all of the membership interest in that way.

9. Any ballot, vote, authorization, or consent submitted by electronic communication under sections 351.1000 to 351.1228 may be revoked by the member submitting a written revocation including another ballot, vote, authorization, or consent so long as the revocation is received by a director or an officer of the cooperative which has been designated, under the bylaws or by resolution of the board, to receive such revocation at or before the meeting or before an action without a meeting is effective. A ballot, vote, authorization, or consent submitted by a member who attends a members' meeting shall automatically and without further action revoke such member's previous electronic ballot, vote, authorization, or consent, if any.

**351.1120. ADDITIONAL VOTE FOR PATRON MEMBER, WHEN. — 1.** A cooperative, by its articles or bylaws, may authorize patron members to have an additional vote for:

(1) A stipulated amount of business transacted between the patron member and cooperative;

(2) Where the patron member is another cooperative, a stipulated number of patron members of such member;

(3) A certain stipulated amount of equity allocated to or held by a patron member in the cooperative;

(4) A combination of methods in subdivisions (1) to (3) of this subsection.

2. A cooperative that is organized into units or districts of patron members may, by the articles or bylaws, authorize the delegates elected by its patron members to have an additional vote for:

(1) A stipulated amount of business transacted between the patron members in the units or districts and the cooperative;

(2) A certain stipulated amount of equity allocated to or held by the patron members of the units or districts of the cooperative; or

(3) A combination of methods in subdivisions (1) and (2) of this subsection.

**351.1123. MEMBERSHIP INTERESTS OWNED OR CONTROLLED BY ANOTHER BUSINESS, PERSON, OR TRUST. —** Unless otherwise set forth in the articles or bylaws:

(1) Membership interests of a cooperative owned by another business entity as of the record date may be voted by the chair, chief executive officer, or an officer of that organization authorized to vote the membership interest by such business entity;

(2) Subject to section 351.1126, membership interests held in the name of a member, but under the control of another person as such member's personal representative, administrator, executor, guardian, conservator, or similar position may be voted by such person, either in person or by proxy, in the place of the member upon the filing of notice to the cooperative;

(3) Subject to section 351.1126, membership interests in the name of a trustee in bankruptcy or a receiver as of the record date are not eligible to vote and may not be voted by such trustee or receiver;

(4) The grant of a security interest in a membership interest does not entitle the holders of the security interest to vote.

**351.1126. COOPERATIVE INTERESTS IN OTHER BUSINESS ENTITY, REPRESENTATIVE AT BUSINESS MEETING OF OTHER ENTITY PERMITTED.** — A cooperative that holds ownership interests of another business entity may, by direction of the board, elect or appoint a person to represent the cooperative at a meeting of the business entity. The representative shall have authority to represent the cooperative and may cast the cooperative's vote at the business entity's meeting.

**351.1129. PROPERTY RIGHTS OF COOPERATIVE.** — 1. A cooperative may, by resolution of the board and without first obtaining member approval, upon those terms and conditions and for those considerations, which may be money, securities, or other instruments for the payment of money or other property, as the board considers expedient:

(1) Sell, lease, transfer, or otherwise dispose of its property and assets in the usual and regular course of its business;

(2) Sell, lease, transfer, or otherwise dispose of a portion but not all or substantially all of its property and assets not in the usual and regular course of its business;

(3) Sell, lease, transfer, or otherwise dispose of all or substantially all of its property and assets not in the usual and regular course of its business if:

(a) The cooperative has given written notice to the members of the impending or potential disposition prior to the disposition; and

(b) The board has determined that failure to proceed with the disposition would be adverse to the interests of the members and the cooperative;

(4) Grant a security interest in all or substantially all of its property and assets whether or not in the usual and regular course of its business;

(5) Transfer any or all of its property to a business entity, all the ownership interests of which are owned by the cooperative; or

(6) For purposes of debt financing, transfer any or all of its property to a special purpose entity owned or controlled by the cooperative for an asset securitization.

2. Except as otherwise provided in the bylaws or in subdivision (3) of subsection 1 of this section, the board may sell, lease, transfer, or otherwise dispose of all or substantially all of the cooperative's property and assets, including its good will, not in the usual and regular course of its business, upon those terms and conditions and for those considerations which may be money, securities, or other instruments for the payment of money or other property when such action is approved by the members at a regular or special members' meeting in accordance with section 351.1111. Written notice of the meeting shall be given to the members and shall state that a purpose of the meeting is to consider the sale, lease, transfer, or other disposition of all or substantially all of the property and assets of the cooperative.

3. The transferee shall be liable for the debts, obligations, and liabilities of the transferor only to the extent provided in the contract or agreement between the transferee and the transferor or to the extent provided by law.

**351.1132. TRANSFER OF MEMBERSHIP AND FINANCIAL RIGHTS, RESTRICTIONS — DEATH OF MEMBER, EFFECT OF.** — 1. A restriction on the transfer of membership interests of a cooperative may be imposed in the articles, bylaws, by a resolution adopted by the members, or by an agreement among or other written action by a number of members or holders of other membership interests or among them and the cooperative. A restriction is not binding with respect to membership interests issued prior to the adoption of the restriction, unless the holders of those membership interests are parties to the agreement or voted in favor of the restriction.

2. The articles or bylaws may, but shall not be required to, provide that the cooperative or the patron members, individually or collectively, have the first right of purchasing the membership interests of any membership interests, or class thereof, offered for sale upon the terms and conditions as set forth in the articles or bylaws. A repurchase of the membership interests by the cooperative shall render such membership interests null and void.

3. Except as provided in subsection 4 of this section or as otherwise provided in the articles or bylaws, a member's financial rights are transferable in whole or in part. Such an assignment does not dissolve the cooperative and does not entitle or empower the assignee to become a member, to exercise any governance rights, to receive any notices from the cooperative, or to cause dissolution of the cooperative.

4. A restriction on the assignment of financial rights may be imposed in the articles or bylaws, by a resolution adopted by the board, by a resolution adopted by the members, by an agreement among or other written action by the members, or by an agreement among or other written action by the members and the cooperative. A restriction is not binding with respect to financial rights reflected in the required records before the adoption of the restriction, unless the owners of those financial rights are parties to the agreement or voted in favor of the restriction. Once a restriction is imposed under this subsection, such restriction cannot be amended or removed by the members unless by an affirmative two-thirds majority vote of the members at an annual or special members' meeting.

5. On application to a court of competent jurisdiction by any judgment creditor of a member, the court may charge a member's or an assignee's financial rights with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of a member's financial rights under this section. Sections 351.1000 to 351.1228 shall not deprive any member or assignee of financial rights of the benefit of any exemption laws applicable to the membership interest. This section shall be the sole and exclusive remedy of a judgment creditor with respect to the judgment debtor's membership interest.

6. Subject to section 351.1123 and except as otherwise set forth in the bylaws, if a member who is an individual dies or a court of competent jurisdiction adjudges the member to be incompetent to manage the member's person or property, or an order for relief under the bankruptcy code is entered with respect to the member, the member's executor, administrator, guardian, conservator, trustee, or other legal representative may exercise all of the member's rights for the purpose of settling the estate or administering the member's property. Subject to section 351.1123, if a member is a business entity, trust, or other entity and is dissolved, terminated, or placed by a court in receivership or bankruptcy, the powers of that member may be exercised by its legal representative or successor. The cooperative shall have the first right to repurchase the membership interest of such deceased, incompetent, or bankrupt member from such member's executor, administrator, guardian, conservator, trustee, or other legal representative, upon such terms and as set forth in the bylaws, and shall have the first right to repurchase the membership interest of such dissolved, terminated, or bankrupt business entity, trust, or other business entity.

**351.1135. CONTRIBUTIONS ACCEPTED, WHEN, REQUIREMENTS.** — 1. Subject to any restrictions in sections 351.1000 to 351.1228, the articles, or bylaws regarding patron and nonpatron membership interests, and only when authorized by the board, a cooperative may accept contributions which may be patron or nonpatron membership contributions under this section, make contribution agreements under section 351.1138, and make contribution rights agreements under section 351.1141.

2. Except as otherwise set forth in the bylaws, a person may make a contribution to a cooperative:

(1) By paying money or transferring the ownership of an interest in property to the cooperative or rendering services to or for the benefit of the cooperative; or

(2) Through a written obligation signed by the person to pay money or transfer ownership of an interest in property to the cooperative or to perform services to or for the benefit of the cooperative.

3. No purported contribution shall be treated or considered as a contribution, unless:

(1) The board accepts the contribution on behalf of the cooperative and in that acceptance describes the contribution, including terms of future performance, if any, and agrees to and states the value being accorded to the contribution; and

(2) The fact of contribution and the contribution's accorded value are both reflected in the required records of the cooperative.

4. The determination of the board as to the amount or fair value or the fairness to the cooperative of the contribution accepted or to be accepted by the cooperative or the terms of payment or performance, including under a contribution agreement under section 351.1138, and a contribution rights agreement under section 351.1141, are presumed to be proper if they are made in good faith and on the basis of accounting methods, or a fair valuation or other method, reasonable in the circumstances.

**351.1138. CONTRIBUTION AGREEMENTS, REQUIREMENTS. — 1. A contribution agreement, whether made before or after the formation of the cooperative, is not enforceable against the would-be contributor unless it is in writing and signed by the would-be contributor.**

2. Unless otherwise provided in the contribution agreement, or unless all of the would-be contributors and, if in existence, the cooperative, consent to a shorter or longer period in the contribution agreement, a contribution agreement is irrevocable for a period of six months.

3. A contribution agreement, whether made before or after the formation of a cooperative, shall be paid or performed in full at the time or times, or in the installments, if any, specified in the contribution agreement. In the absence of a provision in the contribution agreement specifying the time at which the contribution is to be paid or performed, the contribution shall be paid or performed at the time or times determined by the board.

4. (1) Unless otherwise provided in the contribution agreement, in the event of default in the payment or performance of an installment or call when due, the cooperative may proceed to collect the amount due in the same manner as a debt due the cooperative. If a would-be contributor does not make a required contribution of property or services, the cooperative shall require the would-be contributor to contribute cash equal to that portion of the value, as determined in section 351.1135, of the contribution that has not been made.

(2) If the amount due under a contribution agreement remains unpaid for a period of twenty days after written notice of demand for payment has been given to the delinquent would-be contributor, the cooperative may:

(a) Terminate the contribution agreement and automatically revoke and cancel any membership interest issued to the would-be contributor under the contribution agreement, and retain any portion of the contribution previously paid by the would-be contributor; or

(b) Pursue any other remedy available to the cooperative at law or equity.

5. Unless otherwise provided in the articles or bylaws, a would-be contributor's rights under a contribution agreement may not be assigned, in whole or in part, to another person unless such assignment is approved by a majority of the board or unanimously by

the members, either of which may be by written consent, and upon such terms as set forth in the bylaws.

**351.1141. CONTRIBUTION RIGHTS AGREEMENTS. — 1.** Subject to any restrictions in the articles or bylaws, a cooperative may enter into contribution rights agreements under the terms, provisions, and conditions fixed by the board.

**2.** Any contribution rights agreement shall be in writing and the writing shall state in full, summarize, or include by reference all of the agreement's terms, provisions, and conditions of the rights to make contributions.

**3.** Unless otherwise provided in the articles or bylaws, a would-be contributor's rights under a contribution rights agreement shall not be assigned, in whole or in part, to a person who was not a member at the time of the assignment, unless all the members approve the assignment by unanimous written consent.

**351.1144. PROFITS AND LOSSES, ALLOCATION OF, REQUIREMENTS. — 1.** Unless otherwise set forth in the articles or bylaws, the board shall prescribe the allocation of profits and losses between patron membership interests collectively and any other membership interests, which profits and losses may be allocated between patron membership interests collectively and other membership interests on the basis of the value of patronage by the patron membership interests collectively and other membership interests, or as otherwise determined by the board. Unless otherwise stated in the articles or bylaws, the allocation of profits to the patron membership interests collectively shall not be less than fifty percent of the total profits in any fiscal year. In no event shall the allocation of profits to the patron membership interests collectively be less than fifteen percent of the total profits in any fiscal year.

**2.** Unless otherwise set forth in the bylaws, the board shall prescribe the distribution of cash or other assets of the cooperative among the membership interests of the cooperative. If not otherwise provided in the bylaws, distribution shall be made to the patron membership interests collectively and other members on the basis of the number of membership interests issued to such member in relation to the total amount of membership interests then issued and outstanding. Unless otherwise set forth in the articles or bylaws, the distributions to patron membership interests collectively shall not be less than fifty percent of the total distributions in any fiscal year. In no event shall the distributions to patron membership interests collectively be less than fifteen percent of the total distributions in any year.

**351.1147. NET INCOME, SET ASIDE PERMITTED, WHEN — ANNUAL DISTRIBUTION REQUIRED — REFUND CREDITS. — 1.** A cooperative may set aside a portion of net income allocated to the patron membership interests as the board determines advisable to create or maintain a capital reserve.

**2.** Except as otherwise set forth in the bylaws, in addition to a capital reserve, the board may, for patron membership interests:

(1) Set aside an amount, to be determined by the board, of the annual net income of the cooperative for promoting and encouraging the cooperative;

(2) Set aside and retain that portion of the annual net income as determined by the board to be necessary to meet the upcoming and ongoing capital needs of the cooperative; and

(3) Establish and accumulate reserves for advancement of the cooperative's business purposes.

**3.** Net income allocated to patron members in excess of dividends on equity and additions to reserves shall be distributed to patron members on the basis of patronage. A

cooperative may, but is not obligated to, establish pooling arrangements, allocation units, or both, as determined by the board, whether the units are functional, divisional, departmental, geographic, or otherwise and may account for and distribute net income to patrons on the basis of such allocation units or pooling arrangements. A cooperative, as determined by the board, may offset the net loss of an allocation unit, pooling arrangement, or both, against the net income of other allocation units or pooling arrangements, and may set off any amounts owed to the cooperative by a member from amounts otherwise distributable to a member.

4. Unless otherwise set forth in the bylaws, distribution of net income shall be made at least annually. The board shall present to the members at their annual meeting a report covering the operations of the cooperative during the preceding fiscal year.

5. A cooperative may distribute net income to patron members in cash, capital credits, allocated patronage equities, revolving fund certificates, scrip or its own or other securities as determined by the board.

6. The cooperative, through its bylaws or through a separate agreement by and between the member and the cooperative, may obligate the member to accept the method of taxation of the member's distribution as determined by the board, regardless of the form of such distribution.

7. The cooperative may provide in the bylaws that nonmember patrons are allowed to participate in the distribution of net income payable to patron members on equal or unequal terms with patron members.

8. Except as otherwise set forth in the bylaws, if a nonmember patron with patronage credits is not qualified or eligible for membership, a refund due may be credited to the nonpatron's individual account. The board may issue a certificate of interest to reflect the credited amount.

**351.1150. UNCLAIMED PROPERTY, HOW TREATED. — 1.** A cooperative may, in lieu of paying or delivering to the state the unclaimed property specified in its report of unclaimed property filed under section 447.539:

(1) Distribute the unclaimed property to a business entity or organization that is exempt from taxation; or

(2) Retain the unclaimed property as operational reserve funds.

2. The right of an owner to unclaimed property held by a cooperative is extinguished when the property is disbursed by the cooperative to a tax exempt organization or retained by the cooperative as set forth in subsection 1 of this section if:

(1) A reasonable effort to distribute the property to the member has been made by the cooperative; and

(2) (a) Notice that the payment is available has been mailed to the last known address of the person shown by the records to be entitled to the property; or

(b) If the member's address is unknown, notice is published in an official publication of the cooperative; and

(3) The cooperative has received no response from the member within the two-year period following the date such notice was mailed or published as the case may be.

**351.1153. MERGER AND CONSOLIDATION — DEFINITIONS — PROCEDURE, EFFECT OF. — 1.** As used in this section and sections 351.1156 and 351.1159, the following words shall mean:

(1) "Consolidated entity", that entity, or those entities, which are being consolidated into the new entity as described in the plan of consolidation;

(2) "Merging entity", that entity, or those entities, which are merging into the surviving entity as described in the plan of merger;

(3) "New entity", that entity created due to a consolidation of entities as described in the plan of consolidation;

(4) "Ownership interest", shares, membership interests which shall include patron and nonpatron membership interests in the case of a cooperative, or other instances of ownership, whether certificated or uncertificated, in a business entity;

(5) "Surviving entity", that entity into which all other merging entities shall merge as described in the plan of merger.

2. (1) Unless otherwise prohibited by Missouri statute or the statutes of a foreign jurisdiction, cooperatives organized under the laws of this state may merge or consolidate with each other, one or more domestic business entity, one or more foreign business entity, or any combination thereof, by complying with:

(a) The provisions of this section;

(b) The provisions of the law of the state of domicile of the surviving or new entity; and

(c) The provisions of the law of the state of domicile of all merging entities.

(2) Mergers or consolidations involving domestic business entities shall be subject to the revised statutes of Missouri governing such domestic business entity.

(3) This subsection shall not authorize a foreign business entity to act in any way in violation of the law governing the foreign business entity.

3. To initiate a merger or consolidation under subsection 2 of this section, a written plan of merger or consolidation shall be prepared by the board or by a committee selected by the board to prepare a plan. The plan shall state:

(1) The names and states of domicile of the cooperatives, domestic business entities, or foreign business entities in a consolidation, or the names and state of domicile of each merging entity;

(2) The name and state of domicile of the surviving or new entity;

(3) The manner and basis of converting ownership interests of the constituent domestic cooperatives in a consolidation, or the merging entities in a merger into membership or ownership interests in the surviving or new entity;

(4) The terms of the merger or consolidation;

(5) Provided the surviving entity shall be a cooperative subject to sections 351.1000 to 351.1228, the election by the cooperative of either a corporate or partnership tax structure under federal income tax law;

(6) The proposed effect of the consolidation or merger on the ownership interests of the members which shall include patron and nonpatron members in the case of a cooperative, shareholders, or owners of the new or surviving entity, as the case may be; and

(7) For a consolidation, the plan shall contain the articles of the entity or organizational documents to be filed with the state in which the new entity is organized, including any filings in Missouri.

4. The board shall mail or otherwise transmit or deliver notice of the merger or consolidation to each member in the same manner as notice of a regular or special members' meeting is given. The notice shall contain the full text of the plan, and the time and place of the meeting at which the plan will be considered.

5. (1) A plan of merger or consolidation shall be adopted by a cooperative as provided in this subsection.

(2) A plan of merger or consolidation shall be adopted if:

(a) A quorum of the members eligible to vote is registered as being present or represented by mail vote or alternative ballot at the members' meeting; and

(b) The plan is approved by the patron members, or if otherwise provided in the articles or bylaws, is approved by a majority of the votes cast in each class of votes cast, or



for a cooperative with articles or bylaws requiring more than a majority of the votes cast or other conditions for approval, the plan is approved by a proportion of the votes cast or a number of total members as required by the articles or bylaws and the conditions for approval in the articles or bylaws have been satisfied.

(3) After the plan has been adopted, articles of merger or articles of consolidation stating that the plan was adopted according to this subsection shall be signed by an authorized representative of each of the merging or consolidated entities, and an authorized representative of the new or surviving entity. A copy of the plan shall be attached to such articles of merger or consolidation.

(4) The articles of merger or consolidation shall be filed in the office of the secretary of state.

(5) For a merger, the articles of the surviving cooperative subject to sections 351.1000 to 351.1228 are deemed amended to the extent provided in the articles of merger.

(6) Unless a later date is provided in the plan, the merger or consolidation is effective when the articles of merger or consolidation are filed in the office of the secretary of state or the appropriate office of another jurisdiction.

(7) In the case of a merger, the secretary of state shall issue a certificate of merger following the filing of the articles of merger by the secretary of state.

(8) In the case of a consolidation, the secretary of state shall issue a certificate of organization following the filing of the articles of consolidation by the secretary of state.

6. (1) After the effective date:

(a) In the case of a merger, the merging entity or entities and the surviving entity shall become a single entity, and the separate existence of each merging entity that is a party to the plan of merger shall cease;

(b) In the case of a consolidation, the new entity shall be formed and the separate existence of each consolidated domestic or foreign business entity that is a party to the plan of consolidation shall cease.

(2) The surviving or new entity possesses all of the rights and property of each of the merging or consolidated entities and is responsible for all their obligations. The title to property of the merging or consolidated entity or entities is vested in the surviving or new entity without reversion or impairment of the title caused by the merger or consolidation.

(3) If it shall be the case that a domestic or foreign business entity not organized as a cooperative association but operating on a cooperative basis under the provisions of subchapter T of the Internal Revenue Code of 1986, as amended, shall merge into a cooperative under sections 351.1000 to 351.1228, then the bylaws and other cooperative agreements related to such entity shall be allowed to govern without further amendment and the surviving entity may continue to operate in the same manner as the merging entity so long as such operations, bylaws, or other cooperative agreements do not directly violate sections 351.1000 to 351.1228.

**351.1156. SUBSIDIARIES, MERGER WITH PARENT, WHEN, PROCEDURE — CERTIFICATE OF MERGER REQUIRED. — 1.** A parent cooperative owning at least ninety percent of the outstanding ownership interests in a subsidiary business entity, whether directly or indirectly through related organizations, may merge the subsidiary business entity into itself or into any other subsidiary of which at least ninety percent of the outstanding ownership interests is owned by the parent cooperative, whether directly or indirectly through related organizations, without a vote of the members of itself or any subsidiary business entity or may merge itself, or itself and one or more of the subsidiary business entities, into one of the subsidiary business entities under this section. A resolution approved by the affirmative vote of a majority of the directors of the parent cooperative present shall set forth a plan of merger that contains:

(1) The name and states of domicile of the subsidiary business entity or entities, the name of the parent, and the name of the surviving entity;

(2) The manner and basis of converting the ownership interests of the subsidiary business entity or business entities or parent into ownership interests of the parent, subsidiary, or other business entity or, in the whole or in part, into money or other property;

(3) If the parent is a merging entity, a provision for the pro rata issuance of ownership interests of the surviving entity to the holders of membership interests of the parent on surrender of any certificates for shares of the parent;

(4) If the surviving entity is a subsidiary, a statement of any amendments to the articles of incorporation, organization or association, as the case may be, of the surviving entity that will be part of the merger;

(5) If the parent is the surviving entity, it may change its cooperative name, without a vote of its members, by the inclusion of a provision to that effect in the resolution of merger setting forth the plan of merger that is approved by the affirmative vote of a majority of the directors of the parent. Upon the effective date of the merger, the name of the parent shall be changed; and

(6) If the parent is a merging entity, the resolution is not effective unless it is also approved by the affirmative vote of the holders of two-thirds of the voting power of all membership interests of the parent entitled to vote at a regular or special members' meeting if the parent is a cooperative, or in accordance with the laws under which it is organized if the parent is another domestic business entity or a foreign business entity or cooperative.

2. Notice of the action, including a copy of the plan of merger, shall be given to each member, other than the parent and any subsidiary of each subsidiary that is a constituent cooperative in the merger before, or within ten days after, the effective date of the merger.

3. Articles of merger shall be prepared that contain:

(1) The name and states of domicile of each merging entity and the name and states of domicile of the surviving entity;

(2) The plan of merger; and

(3) A statement that the plan of merger has been approved by the parent under this section.

4. The articles of merger shall be signed on behalf of the parent and filed with the secretary of state.

5. The secretary of state shall issue a certificate of merger to the surviving entity or its legal representative.

**351.1159. ABANDONMENT OF PLAN OF MERGER, PROCEDURE.** — 1. After a plan of merger has been approved by the members entitled to vote on the approval of the plan and before the effective date of the plan, the plan may be abandoned by the same vote that approved the plan.

2. A plan of merger may be abandoned before the effective date of the plan by a resolution of the board of any surviving entity or merging entity, subject to the contract rights of any other person under the plan. If a plan of merger is with a foreign business entity, the plan of merger may be abandoned before the effective date of the plan by a resolution of the foreign business entity adopted according to the laws of the state under which the foreign business entity is organized, subject to the contract rights of any other person under the plan. If the plan of merger is with a domestic business entity, the plan of merger may be abandoned by the domestic business entity in accordance with the provisions of the revised statutes of Missouri, subject to the contractual rights of any other person under the plan.

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3. If articles of merger have been filed with the secretary of state, but have not yet become effective, the constituent organizations, or any one of them, shall file with the secretary of state articles of abandonment that contain:

- (1) The names of the constituent organizations;
- (2) The provisions of this section under which the plan is abandoned and the text of the resolution abandoning the plan.

**351.1162. DISSOLUTION, AFFIRMATIVE VOTE REQUIRED.** — A cooperative may be dissolved by the affirmative vote of two-thirds of the members or by order of the court.

**351.1165. NOTICE OF DISSOLUTION.** — Before a cooperative begins dissolution, a notice of intent to dissolve shall be filed with the secretary of state. The notice shall contain:

- (1) The name of the cooperative;
- (2) The date and place of the members' meeting at which the resolution was approved; and
- (3) A statement that the requisite vote of the members approved the proposed dissolution.

**351.1168. DISSOLUTION, INTERESTS IN PROPERTY MAY BE CONVEYED, WHEN.** — 1. After the notice of intent to dissolve has been filed with the secretary of state, the board, or the officers acting under the direction of the board shall proceed as soon as possible:

- (1) To collect or make provision for the collection of all debts due or owing to the cooperative, including unpaid subscriptions for shares; and
- (2) To pay or make provision for the payment of all debts, obligations, and liabilities of the cooperative according to their priorities.

2. After the notice of intent to dissolve has been filed with the secretary of state, the board may sell, lease, transfer, or otherwise dispose of all or substantially all of the property and assets of the dissolving cooperative without a vote of the members.

3. Tangible and intangible property, including money, remaining after the discharge of the debts, obligations, and liabilities of the cooperative shall be distributed to the members and former members as provided in the articles or bylaws, which may be on the basis of such member's patronage with the cooperative, unless otherwise provided by law. If previously authorized by the members, the tangible and intangible property of the cooperative may be liquidated and disposed of at the discretion of the board.

**351.1171. REVOCATION OF DISSOLUTION PROCEEDINGS, WHEN — MEMBERS' MEETING PERMITTED — EFFECTIVE DATE OF REVOCATION** — 1. Dissolution proceedings may be revoked before the articles of dissolution are filed with the secretary of state.

2. The board may call a members' meeting to consider the advisability of revoking the dissolution proceedings. The question of the proposed revocation shall be submitted to the members at the members' meeting called to consider the revocation. The dissolution proceedings are revoked if the proposed revocation is approved at the members' meeting by a majority of the members of the cooperative or for a cooperative with articles or bylaws requiring a greater number of members, the number of members required by the articles or bylaws.

3. Revocation of dissolution proceedings is effective when a notice of revocation is filed with the secretary of state. After the notice is filed, the cooperative may resume business.

**351.1174. CREDITOR CLAIMS BARRED, WHEN.** — The claim of a creditor or claimant against a dissolving cooperative is barred if the claim has not been enforced by initiating

legal, administrative, or arbitration proceedings concerning the claim by two years after the date the notice of intent to dissolve is filed with the secretary of state.

**351.1177. ARTICLES OF DISSOLUTION, PROCEDURE. — 1.** Articles of dissolution of a cooperative shall be filed with the secretary of state after payment of the claims of all known creditors and claimants has been made or provided for and the remaining property has been distributed by the board. The articles of dissolution shall state:

(1) That all debts, obligations, and liabilities of the cooperative have been paid or discharged or adequate provisions have been made for them or time periods allowing claims have run and other claims are not outstanding;

(2) That the remaining property, assets, and claims of the cooperative have been distributed among the members or under a liquidation authorized by the members; and

(3) That legal, administrative, or arbitration proceedings by or against the cooperative are not pending or adequate provision has been made for the satisfaction of a judgment, order, or decree that may be entered against the cooperative in a pending proceeding.

**2.** The cooperative is dissolved when the articles of dissolution have been filed with the secretary of state.

**3.** The secretary of state shall issue to the dissolved cooperative or its legal representative, a certificate of dissolution that contains:

(1) The name of the dissolved cooperative;

(2) The date the articles of dissolution were filed with the secretary of state; and

(3) A statement that the cooperative is dissolved.

**351.1180. COURT SUPERVISION OF DISSOLUTION, WHEN. —** After a notice of intent to dissolve has been filed with the secretary of state and before a certificate of dissolution has been issued, the cooperative or, for good cause shown, a member or creditor may apply to a court within the county where the registered address is located to have the dissolution conducted or continued under the supervision of the court.

**351.1183. EQUITABLE RELIEF AND LIQUIDATION OF ASSETS, WHEN. — 1.** A court may grant equitable relief that it deems just and reasonable in the circumstances or may dissolve a cooperative and liquidate its assets and business:

(1) In a supervised voluntary dissolution that is applied for by the cooperative;

(2) In an action by a majority of the members when it is established that:

(a) The directors or the persons having the authority otherwise vested in the board are deadlocked in the management of the cooperative's affairs and the members are unable to break the deadlock;

(b) The board or those in control of the cooperative have breached their fiduciary duties to the members;

(c) The members are so divided in voting power that, for a period that includes the time when two consecutive regular members' meetings were held, they have failed to elect successors to directors whose terms have expired or would have expired upon the election and qualification of their successors;

(d) The cooperative assets are being misapplied or wasted; or

(e) The period of duration as provided in the articles has expired and has not been extended as provided in sections 351.1000 to 351.1228; and

(3) In an action by a creditor when:

(a) The cooperative has admitted in writing that the claim of the creditor against the cooperative is due and owing and it is established that the cooperative is unable to pay its debts in the ordinary course of business; or

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(b) In an action by the attorney general to dissolve the cooperative in accordance with sections 351.1000 to 351.1228 when it is established that a decree of dissolution is appropriate.

2. In determining whether to order equitable relief or dissolution, the court shall take into consideration the financial condition of the cooperative but shall not refuse to order equitable relief or dissolution solely on the grounds that the cooperative has accumulated operating net income or current operating net income.

3. In deciding whether to order dissolution of the cooperative, the court shall consider whether lesser relief suggested by one or more parties, such as a form of equitable relief or a partial liquidation, would be adequate to permanently relieve the circumstances established under subdivision (2) of subsection 1 of this section. Lesser relief may be ordered if it would be appropriate under the facts and circumstances of the case.

4. If the court finds that a party to a proceeding brought under this section has acted arbitrarily, or otherwise not in good faith, the court may in its discretion award reasonable expenses including attorney fees and disbursements to any of the other parties.

5. Proceedings under this section shall be brought in a court within the county where the registered address of the cooperative is located.

6. It is not necessary to make members parties to the action or proceeding unless relief is sought against them personally.

**351.1186. COURT AUTHORITY IN DISSOLUTION PROCEEDINGS — RECEIVER MAY BE APPOINTED — DISTRIBUTION OF ASSETS. — 1. In dissolution proceedings before a hearing can be completed, the court may:**

- (1) Issue injunctions;
- (2) Appoint receivers with all powers and duties that the court directs;
- (3) Take actions required to preserve the cooperative's assets wherever located; and
- (4) Carry on the business of the cooperative.

2. After a hearing is completed, upon notice to parties to the proceedings and to other parties in interest designated by the court, the court may appoint a receiver to collect the cooperative's assets including amounts owing to the cooperative by subscribers on account of an unpaid portion of the consideration for the issuance of shares. A receiver has authority, subject to the order of the court, to continue the business of the cooperative and to sell, lease, transfer, or otherwise dispose of the property and assets of the cooperative either at public or private sale.

3. The assets of the cooperative or the proceeds resulting from a sale, lease, transfer, or other disposition shall be applied in the following order of priority:

- (1) The costs and expense of the proceedings, including attorney fees and disbursements;
- (2) Debts, taxes, and assessments due the United States, this state, and other states in that order;
- (3) Claims duly proved and allowed to employees under the provisions of the workers' compensation act except that claims under this clause may not be allowed if the cooperative carried workers' compensation insurance, as provided by law, at the time the injury was sustained;
- (4) Claims, including the value of all compensation paid in a medium other than money, proved and allowed to employees for services performed within three months preceding the appointment of the receiver, if any; and
- (5) Other claims proved and allowed.

4. After payment of the expenses of receivership and claims of creditors are proved, the remaining assets, if any, may be distributed to the members or distributed under an approved liquidation plan.

**351.1189. RECEIVERS, REQUIREMENTS. — 1.** A receiver shall be a natural person or a domestic business entity or a foreign business entity authorized to transact business in this state. A receiver shall give a bond as directed by the court with the sureties required by the court.

**2.** A receiver may sue and defend in all courts as receiver of the cooperative. The court appointing the receiver has exclusive jurisdiction over the cooperative and its property.

**351.1192. INVOLUNTARY DISSOLUTION, WHEN. — 1.** A cooperative may be dissolved involuntarily by a decree of a court in this state in an action filed by the attorney general if it is established that:

- (1) The articles and certificate of organization were procured through fraud;
- (2) The cooperative was organized for a purpose not permitted by sections 351.1000 to 351.1228 or prohibited by state law;
- (3) The cooperative has flagrantly violated a provision of sections 351.1000 to 351.1228, has violated a provision of sections 351.1000 to 351.1228 more than once, or has violated more than one provision of sections 351.1000 to 351.1228; or
- (4) The cooperative has acted, or failed to act, in a manner that constitutes surrender or abandonment of the cooperative's privileges, or enterprise.

**2.** An action may not be commenced under subsection 1 of this section until forty-five days after notice to the cooperative by the attorney general of the reason for the filing of the action. If the reason for filing the action is an act that the cooperative has committed, or failed to commit, and the act or omission may be corrected by an amendment of the articles or bylaws or by performance of or abstention from the act, the attorney general shall give the cooperative thirty additional days to make the correction before filing the action. If the cooperative makes the correction within such thirty-day period, the attorney general shall not file the action.

**351.1195. CREDITOR CLAIMS TO BE FILED UNDER OATH, WHEN, COURT PROCEDURE. —**

**1.** In proceedings to dissolve a cooperative, the court may require all creditors and claimants of the cooperative to file their claims under oath with the court administrator or with the receiver in a form prescribed by the court.

**2.** If the court requires the filing of claims, the court shall:

(1) Set a date, by order, at least one hundred twenty days after the date the order is filed as the last day for the filing of claims; and

(2) Prescribe the notice of the fixed date that shall be given to creditors and claimants.

**3.** Before the fixed date, the court may extend the time for filing claims. Creditors and claimants failing to file claims on or before the fixed date may be barred, by order of court, from claiming an interest in or receiving payment out of the property or assets of the cooperative.

**351.1198. DISCONTINUANCE OF INVOLUNTARY DISSOLUTION. —** The involuntary or supervised voluntary dissolution of a cooperative may be discontinued at any time during the dissolution proceedings if it is established that cause for dissolution does not exist. The court shall dismiss the proceedings and direct the receiver, if any, to redeliver to the cooperative its remaining property and assets.

**351.1201. COURT ORDER OF DISSOLUTION, WHEN. — 1.** In an involuntary or supervised voluntary dissolution, after the costs and expenses of the proceedings and all debts, obligations, and liabilities of the cooperative have been paid or discharged and the remaining property and assets have been distributed to its members or if its property and

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assets are not sufficient to satisfy and discharge the costs, expenses, debts, obligations, and liabilities, when all the property and assets have been applied so far as they will go to their payment according to their priorities, the court shall enter an order dissolving the cooperative.

2. When the order dissolving the cooperative has been entered, the cooperative shall be dissolved.

**351.1204. CERTIFIED COPY OF DISSOLUTION TO BE FILED.** — After the court enters an order dissolving a cooperative, the court administrator shall cause a certified copy of the dissolution order to be filed with the secretary of state. The secretary of state shall not charge a fee for filing the dissolution order.

**351.1207. CREDITOR CLAIMS AFTER DISSOLUTION FOREVER BARRED.** — 1. A person who is or becomes a creditor or claimant before, during, or following the conclusion of dissolution proceedings who does not file a claim or pursue a remedy in a legal, administrative, or arbitration proceeding during the pendency of the dissolution proceeding or has not initiated a legal, administrative, or arbitration proceeding before the commencement of the dissolution proceedings, all those claiming through or under the creditor or claimant are forever barred from suing on that claim or otherwise realizing upon or enforcing it, except as provided in this section.

2. Debts, obligations, and liabilities incurred during dissolution proceedings shall be paid or provided for by the cooperative before the distribution of assets to a member. A person to whom this kind of debt, obligation, or liability is owed but is not paid may pursue any remedy against the offenders, directors, or members of the cooperative before the expiration of the applicable statute of limitations. This subsection shall not apply to dissolution under the supervision or order of a court.

**351.1210. CLAIMS AGAINST DISSOLVED COOPERATIVE, FORMER OFFICERS, DIRECTORS, AND MEMBERS MAY DEFEND.** — After a cooperative has been dissolved, any of its former officers, directors, or members may assert or defend, in the name of the cooperative, a claim by or against the cooperative.

**351.1213. FOREIGN COOPERATIVES, CONFLICT OF LAWS — CERTIFICATE OF AUTHORITY REQUIRED, OTHER REQUIREMENTS.** — 1. (1) Subject to the constitution of this state, the laws of the jurisdiction under which a foreign cooperative is organized govern its organization and internal affairs and the liability of its members. A foreign cooperative shall not be denied a certificate of authority to transact business in this state by reason of any difference between those laws and the laws of this state.

(2) A foreign cooperative holding a valid certificate of authority in this state has no greater rights or privileges than a domestic cooperative. The certificate of authority does not authorize the foreign cooperative to exercise any of its powers or purposes that a domestic cooperative is forbidden by law to exercise in this state.

(3) A foreign cooperative may apply for a certificate of authority under any name that would be available to a cooperative, whether or not the name is the name under which it is authorized in its jurisdiction of organization.

(4) Nothing contained herein shall be interpreted to require a foreign business entity which is not formed as a cooperative association under the laws of any foreign jurisdiction but is otherwise operating on a cooperative basis to comply with the provisions of sections 351.1000 to 351.1228, including but not limited to obtaining a certificate of authority as set forth in subsection 2 of this section. Such an entity shall, however, remain obligated to comply with the revised statutes of Missouri, as applicable to such entity.

2. (1) Before transacting business in this state, a foreign cooperative shall obtain a certificate of authority from the secretary of state. An applicant for the certificate shall submit to the secretary of state an application for registration as a foreign cooperative, signed by an authorized person and setting forth:

(a) The name of the foreign cooperative and, if different, the name under which it proposes to register and transact business in this state;

(b) The jurisdiction of its organization or formation, and the date of such organization or formation;

(c) The name and business address, which may not be a post office box, of the proposed registered agent in this state, which agent shall be an individual resident of this state, a domestic business entity, or a foreign cooperative having a place of business in, and authorized to do business in, this state;

(d) The address of the registered office required to be maintained in the jurisdiction of its organization by the laws of that jurisdiction or, if not so required, of the principal place of business of the foreign cooperative;

(e) The date the foreign cooperative expires in the jurisdiction of its organization; and

(f) A statement that the secretary of state is appointed as the agent of the foreign cooperative for service of process if the foreign cooperative fails to maintain a registered agent in this state or if the agent cannot be found or served with the exercise of reasonable diligence.

(2) The application shall be accompanied by a filing fee of one hundred dollars.

(3) The application shall also be accompanied by a certificate of good standing or certificate of existence issued by the secretary of state of the foreign cooperative's state of domicile, which certificate shall be dated within sixty days of the date of filing.

(4) If the secretary of state finds that an application for a certificate of authority conforms to law and all fees have been paid, the secretary of state shall:

(a) File the original application; and

(b) Return a copy of the original application to the person who filed it with a certificate of authority issued by the secretary of state.

(5) A certificate of authority issued under this section is effective from the date the application is filed with the secretary of state accompanied by the payment of the requisite fees.

(6) If any statement in the application for a certificate of authority by a foreign cooperative was false when made or any arrangements or other facts described have changed, making the application inaccurate in any respect, the foreign cooperative shall promptly file with the secretary of state:

(a) In the case of a change in its name, a termination, or a merger, a certificate to that effect authenticated by the proper officer of the state or country under the laws of which the foreign cooperative is organized; and

(b) A fee for the document, which is the same as the fee for filing an amendment.

3. A foreign cooperative authorized to transact business in this state shall:

(1) Appoint and continuously maintain a registered agent in the same manner as provided in section 351.1027; or

(2) File a report upon any change in the name or business address of its registered agent in the same manner as provided in section 351.1027.

4. (1) A foreign cooperative authorized to transact business in this state may cancel its registration by filing articles of cancellation with the secretary of state, which articles of cancellation shall set forth:

(a) The name of the foreign cooperative and the state or country under the laws of which it is organized;

(b) That the foreign cooperative is not transacting business in this state;

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(c) That the foreign cooperative surrenders its authority to transact business in this state;

(d) That the foreign cooperative revokes the authority of its registered agent in this state to accept service of process and consents to that service of process in any action, suit, or proceeding based upon any cause of action arising in this state out of the transaction of the foreign cooperative in this state;

(e) A post office address to which a person may mail a copy of any process against the foreign cooperative; and

(f) That the authority of the secretary of state to accept service of process in this state for any cause of action arising out of the transactions of the foreign cooperative in this state remains in full force and effect.

(2) The filing with the secretary of state of a certificate of termination or a certificate of merger if the foreign cooperative is not the surviving organization from the proper officer of the state or country under the laws of which the foreign cooperative is organized constitutes a valid application of withdrawal and the authority of the foreign cooperative to transact business in this state shall cease upon the filing of the certificate.

(3) The certificate of authority of a foreign cooperative to transact business in this state may be revoked by the secretary of state upon the occurrence of any of the following events:

(a) The foreign cooperative has failed to appoint and maintain a registered agent as required by sections 351.1000 to 351.1228, file a report upon any change in the name or business address of the registered agent, or file in the office of the secretary of state any amendment to its application for a certificate of authority as specified in subdivision (6) of subsection 2 of this section; or

(b) A misrepresentation has been made of any material matter in any application, report, affidavit, or other document submitted by the foreign cooperative under sections 351.1000 to 351.1228.

(4) No certificate of authority of a foreign cooperative shall be revoked by the secretary of state unless:

(a) The secretary of state has given the foreign cooperative not less than sixty days' notice by mail addressed to its registered office in this state or, if the foreign cooperative fails to appoint and maintain a registered agent in this state, addressed to the office address in the jurisdiction of organization; and

(b) During the sixty-day period, the foreign cooperative has failed to file the report of change regarding the registered agent, to file any amendment, or to correct the misrepresentation.

(5) Sixty days after the mailing of the notice without the foreign cooperative taking the action set forth in paragraph (b) of subdivision (4) of this subsection, the authority of the foreign cooperative to transact business in this state shall cease. The secretary of state shall issue a certificate of revocation and shall mail the certificate to the address of the registered agent in this state or if there is none, then to the principal place of business or the registered office required to be maintained in the jurisdiction of organization of the foreign cooperative.

5. (1) A foreign cooperative transacting business in this state shall not maintain any action, suit, or proceeding in any court of this state until it possesses a certificate of authority.

(2) The failure of a foreign cooperative to obtain a certificate of authority does not impair the validity of any contract or act of the foreign cooperative or prevent the foreign cooperative from defending any action, suit, or proceeding in any court of this state.

(3) A foreign cooperative, by transacting business in this state without a certificate of authority, appoints the secretary of state as its agent upon whom any notice, process, or demand may be served.

(4) A foreign cooperative that transacts business in this state without a valid certificate of authority is liable to the state for the years or parts of years during which it transacted business in this state without the certificate in any amount equal to all fees that would have been imposed by sections 351.1000 to 351.1228 upon the foreign cooperative had it duly obtained the certificate, filed all reports required by sections 351.1000 to 351.1228, and paid all penalties imposed by sections 351.1000 to 351.1228. The attorney general shall bring proceedings to recover all amounts due this state under the provisions of this section.

(5) A foreign cooperative that transacts business in this state without a valid certificate of authority shall be subject to a civil penalty, payable to the state, not to exceed five thousand dollars. Each director or in the absence of directors, each member or agent who authorizes, directs, or participates in the transaction of business in this state on behalf of a foreign cooperative that does not have a certificate shall be subject to a civil penalty, payable to the state, not to exceed one thousand dollars.

(6) The civil penalties set forth in subdivision (5) of this subsection may be recovered in an action brought in this state by the attorney general. Upon a finding by the court that a foreign cooperative or any of its members, directors, or agents have transacted business in this state in violation of sections 351.1000 to 351.1228, the court shall issue, in addition to the imposition of a civil penalty, an injunction restraining the further transaction of the business of the foreign cooperative and the further exercise of the foreign cooperative's rights and privileges in this state. The foreign cooperative shall be enjoined from transacting business in this state until all civil penalties plus any interest and court costs that the court may assess have been paid and until the foreign cooperative has otherwise complied with the provisions of sections 351.1000 to 351.1228.

(7) A member of a foreign cooperative shall not be liable for the debts and obligations of the foreign cooperative solely by reason of foreign cooperative's having transacted business in this state without a valid certificate of authority.

6. (1) The following activities of a foreign cooperative, among others, shall not constitute transacting business within the meaning of this section:

(a) Maintaining or defending any action or suit or any administrative arbitration proceeding, or settling any proceeding, claim, or dispute;

(b) Holding meetings of its members or carrying on any other activities concerning its internal affairs;

(c) Maintaining bank accounts;

(d) Having members that are residents of this state or such members having retail locations in this state;

(e) Selling through independent contractors;

(f) Soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts;

(g) Creating or acquiring indebtedness, mortgages, and security interests in real or personal property;

(h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;

(i) Selling or transferring title to property in this state to any person; or

(j) Conducting an isolated transaction that is completed within thirty days and that is not one in the course of repeated transactions of a like manner.

(2) For purposes of this section, any foreign cooperative that owns income-producing real or tangible personal property in this state, other than property exempted under subdivision (1) of this subsection, shall be considered to be transacting business in this state.

(3) The list of activities in subdivision (1) of this subsection shall not be exhaustive. This subsection shall not apply in determining the contracts or activities that may subject a foreign cooperative to service of process or taxation in this state or to regulation under any other law of this state.

7. The secretary of state, the attorney general, or both, may bring an action to restrain a foreign cooperative from transacting business in this state in violation of sections 351.1000 to 351.1228 or other laws of this state.

8. Service of process on a foreign cooperative shall be as provided under Missouri law.

**351.1216. NOTICE DEEMED GIVEN, WHEN — ELECTRONIC COMMUNICATIONS, CONSENT GIVEN, WHEN. — 1.** Any notice to members given by the cooperative under any provision of sections 351.1000 to 351.1228, the articles, or the bylaws may be given in any of the following forms, and such notice is deemed given:

(1) If by facsimile communication, when directed to a telephone number at which the member has consented to receive notice;

(2) If by electronic mail, when directed to an electronic mail address at which the member has consented to receive notice;

(3) If by a posting on an electronic network on which the member has consented to receive notice, together with separate notice to the member of the specific posting, upon the later of:

(a) The posting; and

(b) The giving of the separate notice;

(4) If by any other form of electronic communication by which the member has consented to receive notice, when directed to the member;

(5) If by United States mail, then when placed in the mail and directed to the address shown as the last known address of the member in the records of the cooperative; and

(6) If by overnight courier service, then when delivered to the courier service and directed to the address shown as the last known address of the member in the records of the cooperative.

2. For any notice which is required to be given to a director under sections 351.1000 to 351.1228, such notice may be given in any method as set forth in subsection 1 of this section upon such director consenting to such director's receipt of notice in such manner.

3. For a member that is a business entity, notice mailed or delivered by an alternative method under subsection 1 of this section shall be to an officer of the entity.

4. An affidavit of the secretary, other authorized officer, or authorized agent of the cooperative that the notice has been given by a form of electronic communication is, in the absence of fraud, prima facie evidence of the facts stated in the affidavit.

5. Consent by a member to notice given by electronic communication may be given in writing or by authenticated electronic communication. The cooperative shall be entitled to rely on any consent so given until revoked by the member provided that no revocation affects the validity of any notice given before receipt by the cooperative of revocation of the consent.

6. Unless otherwise stated herein, all notices shall be deemed effective when given.

7. Failure of a member to receive a special or regular members' meeting notice shall not invalidate an action taken by the members at a members' meeting.

**351.1219. COOPERATIVE NOT DEEMED A FRANCHISE.** — A cooperative formed under and operating in compliance with sections 351.1000 to 351.1228 shall not be deemed or construed to be a franchise under the laws of the state of Missouri.

**351.1222. RECORDS AND SIGNATURES — DEFINITIONS — LEGAL EFFECT OF.** — 1. As used in this section, the following terms mean:

(1) "Electronic", relating to technology, having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

(2) "Electronic record", a record created, generated, sent, communicated, received, or stored by electronic means;

(3) "Electronic signature", an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record;

(4) "Record", information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(5) "Signed", the signature of a person that has been written on a document, and with respect to a document required by sections 351.1000 to 351.1228 to be filed with the secretary of state, a document that has been signed by a person authorized to do so by sections 351.1000 to 351.1228, the articles, or bylaws, or by a resolution approved by the board or the members. A signature on a document may be a facsimile affixed, engraved, printed, placed, stamped with indelible ink, transmitted by facsimile, or electronically, or in any other manner reproduced on the document.

2. For purposes of sections 351.1000 to 351.1228:

(1) A record or signature shall not be denied legal effect or enforceability solely because it is in electronic form;

(2) A contract shall not be denied legal effect or enforceability solely because an electronic record was used in its formation;

(3) If a provision requires a record to be in writing, an electronic record satisfies the requirement; and

(4) If a provision requires a signature, an electronic signature satisfies the requirement.

**351.1225. AMENDMENTS AND REPEAL OF ACT, STATE RESERVES RIGHT OF.** — The state reserves the right to amend or repeal the provisions of sections 351.1000 to 351.1228 by law. A cooperative organized or governed by sections 351.1000 to 351.1228 is subject to this reserved right.

**351.1227. ADDITIONAL POWERS OF SECRETARY OF STATE — RULEMAKING AUTHORITY.** — The secretary of state shall have further power and authority as is reasonably necessary to enable the secretary of state to administer this chapter efficiently and to perform the duties therein imposed upon the secretary of state. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2011, shall be invalid and void.

**351.1228. FILING FEES, DETERMINED BY SECRETARY OF STATE. — Unless otherwise provided, the filing fee for documents filed under sections 351.1000 to 351.1228 shall be determined by the secretary of state.**

Approved July 11, 2011

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**HB 184** [SS SCS HB 184]

**Authorizes commissioners of certain road districts to be compensated for their services and specifies that risk coverages procured by certain political subdivisions will not require competitive bids**

AN ACT to repeal sections 233.280, 537.620, and 537.635, RSMo, and to enact in lieu thereof three new sections relating to political subdivisions.

Vetoed July 8, 2011

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**HB 193** [CCS SS HCS HB 193]

**Changes the composition of Congressional districts based on the 2010 census**

AN ACT to repeal sections 128.345, 128.346, and 128.348, RSMo, and to enact in lieu thereof eleven new sections relating to the composition of congressional districts.

Vetoed April 30, 2011

The General Assembly voted to override veto May 4, 2011.

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**HB 209** [SS SCS HB 209]

**Changes the laws regarding county nuisance abatement ordinances, junkyards, and private nuisance actions**

AN ACT to repeal sections 67.402, 226.720, and 537.296, RSMo, and to enact in lieu thereof three new sections relating to nuisance actions, with penalty provisions.

Vetoed May 2, 2011

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**HB 256** [SCS HB 256]

**Extends the expiration date of the provisions regarding the Basic Civil Legal Services Fund from December 31, 2012, to December 31, 2018**

AN ACT to repeal section 477.650, RSMo, and to enact in lieu thereof one new section relating to the basic civil legal services fund.

Vetoed July 8, 2011

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**HB 430** [CCS SS SCS HCS HB 430]**Changes the laws regarding transportation**

AN ACT to repeal sections 21.795, 70.441, 226.540, 227.107, 301.010, 301.147, 301.225, 301.559, 301.560, 301.562, 301.3084, 302.302, 302.309, 302.341, 302.700, 304.120, 304.180, 304.200, 387.040, 387.050, 387.080, 387.110, 387.207, 390.051, 390.061, 390.116, 390.280, and 577.023, RSMo, and to enact in lieu thereof forty-two new sections relating to transportation, with penalty provisions, a contingent effective date for certain sections, and an effective date for a certain section.

Vetoed July 8, 2011

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**HB 465** [HCS HB 465]**Changes the laws regarding the Division of Credit Unions within the Department of Insurance, Financial Institutions and Professional Registration**

AN ACT to repeal sections 370.100, 370.157, 370.310, 370.320, 370.353, and 370.359, RSMo, and to enact in lieu thereof thirteen new sections relating to credit unions.

Vetoed July 5, 2011

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**HB 484** [HB 484]**Establishes the Missouri State Transit Assistance Program to provide state financial assistance to defray the operating and capital costs incurred by public mass transportation service providers**

AN ACT to amend chapter 226, RSMo, by adding thereto one new section relating to the Missouri state transit assistance program.

Vetoed July 8, 2011

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**HB 1008** [SCS HB 1008]**Allows the Highways and Transportation Commission to enter into infrastructure improvement agreements to reimburse funds advanced for the benefit of a county, political subdivision, or private entity**

AN ACT to amend chapter 226, RSMo, by adding thereto one new section relating to highway infrastructure improvement agreements.

Vetoed July 8, 2011

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**SB 3** [HCS#2 SB 3]**Establishes photo identification requirements for voting**

AN ACT to repeal section 115.427, RSMo, and to enact in lieu thereof two new sections relating to elections, with a contingent effective date.

Vetoed June 17, 2011

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**SB 118** [HCS SS SB 118]**Modifies provisions relating to loans available for sprinkler system requirements in long-term care facilities.**

AN ACT to repeal sections 198.006 and 198.074, RSMo, and to enact in lieu thereof two new sections relating to sprinkler system requirements in long-term care facilities.

Vetoed July 6, 2011

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**SB 163** [HCS SCS SB 163]**Modifies the composition of the Board of Curators of the University of Missouri and the governing board of Missouri State University.**

AN ACT to repeal sections 172.030, 173.005, and 174.450, RSMo, and to enact in lieu thereof three new sections relating to higher education governing boards, with an existing penalty provision.

Vetoed July 7, 2011

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**SB 188** [SCS SB 188]**Modifies the law relating to the Missouri Human Rights Act and employment discrimination**

AN ACT to repeal sections 213.010, 213.070, 213.101, and 213.111, RSMo, and to enact in lieu thereof five new sections relating to unlawful discriminatory practices.

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Vetoed April 29, 2011

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**SB 220** [HCS SB 220]

**Modifies liens for certain design professionals.**

AN ACT to repeal sections 429.015 and 516.098, RSMo, and to enact in lieu thereof three new sections relating to liens for architects, professional engineers, land surveyors, and landscape architects.

Vetoed July 8, 2011

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**SB 282** [CCS HCS SB 282]

**Moves the presidential primary from February to March.**

AN ACT to repeal sections 28.190, 29.280, 30.060, 30.070, 30.080, 52.010, 54.033, 54.330, 78.090, 105.030, 105.040, 105.050, 115.015, 115.123, 115.124, 115.127, 115.241, 115.293, 115.342, 115.601, 115.637, 115.755, and 115.761, RSMo, and to enact in lieu thereof twenty-three new sections relating to elections, with penalty provisions.

Vetoed July 8, 2011

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**VETOED BILLS OVERRIDDEN****HB 193** [CCS SS HCS HB 193]**Changes the composition of Congressional districts based on the 2010 census**

AN ACT to repeal sections 128.345, 128.346, and 128.348, RSMo, and to enact in lieu thereof eleven new sections relating to the composition of congressional districts.

Vetoed April 30, 2011

The General Assembly voted to override veto May 4, 2011.

Please consult the House Bills, page 398, for the full text of HB 193.

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**PROPOSED AMENDMENTS TO THE  
CONSTITUTION OF MISSOURI**

HJR 2 [HJR 2]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**Proposes a constitutional amendment guaranteeing a citizen's right to pray and worship on public property and reaffirming a citizen's right to choose any or no religion**

**JOINT RESOLUTION** Submitting to the qualified voters of Missouri an amendment repealing section 5 of article I of the Constitution of Missouri, and adopting one new section in lieu thereof relating to the right to pray.

**SECTION**

- A. Enacting clause.
- 5. Religious freedom — liberty of conscience and belief — limitations — right to pray — academic religious freedoms and prayer.
- B. Ballot title.

*Be it resolved by the House of Representatives, the Senate concurring therein*

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2012, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article I of the Constitution of the state of Missouri:

**SECTION A. ENACTING CLAUSE.** — Section 5, article I, Constitution of Missouri, is repealed and one new section 2 adopted in lieu thereof, to be known as section 5, to read as follows:

**SECTION 5. RELIGIOUS FREEDOM—LIBERTY OF CONSCIENCE AND BELIEF — LIMITATIONS — RIGHT TO PRAY — ACADEMIC RELIGIOUS FREEDOMS AND PRAYER.** — That all men **and women** have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; that no human authority can control or interfere with the rights of conscience; that no person shall, on account of his **or her** religious persuasion or belief, be rendered ineligible to any public office or trust or profit in this state, be disqualified from testifying or serving as a juror, or be molested in his **or her** person or estate; **that to secure a citizen's right to acknowledge Almighty God according to the dictates of his or her own conscience, neither the state nor any of its political subdivisions shall establish any official religion, nor shall a citizen's right to pray or express his or her religious beliefs be infringed; that the state shall not coerce any person to participate in any prayer or other religious activity, but shall ensure that any person shall have the right to pray individually or corporately in a private or public setting so long as such prayer does not result in disturbance of the peace or disruption of a public meeting or assembly; that citizens as well as elected officials and employees of the state of Missouri and its political subdivisions shall**

have the right to pray on government premises and public property so long as such prayers abide within the same parameters placed upon any other free speech under similar circumstances; that the General Assembly and the governing bodies of political subdivisions may extend to ministers, clergypersons, and other individuals the privilege to offer invocations or other prayers at meetings or sessions of the General Assembly or governing bodies; that students may express their beliefs about religion in written and oral assignments free from discrimination based on the religious content of their work; that no student shall be compelled to perform or participate in academic assignments or educational presentations that violate his or her religious beliefs; that the state shall ensure public school students their right to free exercise of religious expression without interference, as long as such prayer or other expression is private and voluntary, whether individually or corporately, and in a manner that is not disruptive and as long as such prayers or expressions abide within the same parameters placed upon any other free speech under similar circumstances; and, to emphasize the right to free exercise of religious expression, that all free public schools receiving state appropriations shall display, in a conspicuous and legible manner, the text of the Bill of Rights of the Constitution of the United States; but this section shall not be construed to expand the rights of prisoners in state or local custody beyond those afforded by the laws of the United States, excuse acts of licentiousness, nor to justify practices inconsistent with the good order, peace or safety of the state, or with the rights of others.

**SECTION B. BALLOT TITLE.** — Pursuant to Chapter 116, RSMo, and other applicable constitutional provisions and laws of this state allowing the General Assembly to adopt ballot language for the submission of a joint resolution to the voters of this state, the official ballot title of the amendment proposed in Section A shall be as follows:

"Shall the Missouri Constitution be amended to ensure:

- That the right of Missouri citizens to express their religious beliefs shall not be infringed;
- That school children have the right to pray and acknowledge God voluntarily in their schools; and
- That all public schools shall display the Bill of Rights of the United States Constitution."

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## SJR 2 [HCS#2 SJR 2]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**Allows enabling legislation for advance voting and photographic identification for voting**

**JOINT RESOLUTION** Submitting to the qualified voters of Missouri, an amendment to article VIII of the Constitution of Missouri, and adopting four new sections relating to elections.

### SECTION

- A. Enacting clause.
8. Advance voting, when, how conducted—inapplicability to absentee voting—section not self-executing.
9. Voter identification and verification of qualifications may be required—photo identification permitted.
10. Absentee voting, different requirements permitted.
11. Severability clause.
- B. Ballot title.

*Be it resolved by the House of Representatives, the Senate concurring therein:*

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That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2012, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article VIII of the Constitution of the state of Missouri:

**SECTION A. ENACTING CLAUSE.** — Article VIII, Constitution of Missouri, is amended by adding four new sections, to be known as sections 8, 9, 10, and 11, to read as follows:

**SECTION 8. ADVANCE VOTING, WHEN, HOW CONDUCTED—INAPPLICABILITY TO ABSENTEE VOTING—SECTION NOT SELF-EXECUTING.**—Qualified electors of the state may be enabled by general law to vote in person in advance of election day at all elections by the people according to the following terms:

1. Advance voting may be permitted from the third Saturday before the election until the first Tuesday before the election excluding Sundays.

2. Advance voting may be conducted at such locations as are determined by general law to be necessary or desirable to balance reasonable access to advance voting, accountability, integrity, and security of the election, efficiency in the administration of the election, and appropriate and responsible uses of public funds and other resources. The number of advance voting sites may vary depending on expected voter turnout for an election. A general law that requires election authorities to establish a certain number of advance voting sites based solely on the number of registered voters in an election jurisdiction conflicts with this subsection and is not valid.

3. If a voter identification requirement is provided by general law for in-person voting on election day, persons who desire to vote in advance of election day shall also comply with that identification requirement.

4. The name and other identifying information of persons who vote in advance of the election shall be treated confidentially by election officials and lists of persons who have voted in advance shall not be disclosed to members of the public by election officials during the advance voting period, except as necessary for the administration of the election, for law enforcement, or to comply with a court order requiring disclosure for good cause shown. Election officials may disclose lists with the names or other identifying information for persons who have voted in advance of the election to the public after the advance voting period has closed. This section does not prohibit election officials, election judges, challengers, watchers, or any other member of the public from observing or participating in the election process. This section does not alter or effect any change in the provisions of section 3 of this article relating to nondisclosure of how any voter voted and the exceptions thereto.

5. This section shall not apply to absentee voting laws authorized by section 7 of this article.

6. Any law that conflicts with this section shall not be valid or enforceable.

7. This section is not self-executing. Implementing general laws shall be required before any person may vote in advance of an election. In order to allow election authorities sufficient time to prepare for advance voting if authorized by general law, advance voting shall not be effective for any election held on or before January 1, 2014.

**SECTION 9. VOTER IDENTIFICATION AND VERIFICATION OF QUALIFICATIONS MAY BE REQUIRED—PHOTO IDENTIFICATION PERMITTED.**—A person seeking to vote in person in public elections may be required by general law to identify himself or herself and verify his or her qualifications as a citizen of the United States of America and a resident of the state of Missouri by providing election officials with a form of identification, which may include

requiring valid government-issued photo identification. Exceptions to the identification requirement may also be provided for by general law.

**SECTION 10. ABSENTEE VOTING, DIFFERENT REQUIREMENTS PERMITTED.**— Different requirements for absentee voting when the voter does not appear before the election authority may be established by general law as may be necessary or desirable in order to accommodate the different purposes and administration requirements of this method of voting.

**SECTION 11. SEVERABILITY CLAUSE.**— If any portion, clause, or phrase of sections 8, 9, and 10 of this article is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, the remaining portions, clauses, and phrases shall be invalid and of no further force or effect.

**SECTION B. BALLOT TITLE.**— The official ballot title for section A of this act shall read as follows:

"Shall the Missouri Constitution be amended to adopt the Voter Protection Act and allow the General Assembly to provide by general law for advance voting prior to election day, voter photo identification requirements, and voter requirements based on whether one appears to vote in person or by absentee ballot?"

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**HOUSE CONCURRENT RESOLUTION NO. 1 [HCR 1]**

BE IT RESOLVED, by the House of Representatives of the Ninety-sixth General Assembly, First Regular Session of the State of Missouri, the Senate concurring therein, that the House of Representatives and the Senate convene in Joint Session in the Hall of the House of Representatives at 7:00 p.m., Wednesday, January 19, 2011, to receive a message from His Excellency, the Honorable Jeremiah W. (Jay) Nixon, Governor of the State of Missouri; and

BE IT FURTHER RESOLVED, that a committee of ten (10) from the House be appointed by the Speaker to act with a committee of ten (10) from the Senate, appointed by the President Pro Tem, to wait upon the Governor of the State of Missouri and inform His Excellency that the House of Representatives and Senate of the Ninety-sixth General Assembly, First Regular Session, are now organized and ready for business and to receive any message or communication that His Excellency may desire to submit, and that the Chief Clerk of the House of Representatives be directed to inform the Senate of the adoption of this resolution.

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**HOUSE CONCURRENT RESOLUTION NO. 2 [HCR 2]**

BE IT RESOLVED, by the House of Representatives of the Ninety-sixth General Assembly, First Regular Session of the State of Missouri, the Senate concurring therein, that the House of Representatives and the Senate convene in Joint Session in the Hall of the House of Representatives at 10:30 a.m., Wednesday, February 2, 2011, to receive a message from the Honorable William Ray Price, Jr., Chief Justice of the Supreme Court of the State of Missouri; and

BE IT FURTHER RESOLVED, that a committee of ten (10) from the House be appointed by the Speaker to act with a committee of ten (10) from the Senate, appointed by the President Pro Tem, to wait upon the Chief Justice of the Supreme Court of the State of Missouri and inform His Honor that the House of Representatives and the Senate of the Ninety-sixth General Assembly, First Regular Session, are now organized and ready for business and to receive any message or communication that His Honor may desire to submit, and that the Chief Clerk of the House of Representatives be directed to inform the Senate of the adoption of this resolution.

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**HOUSE CONCURRENT RESOLUTION NO. 11 [HCR 11]**

WHEREAS, more than 4,000,000 Americans served in World War I; and

WHEREAS, there is no nationally recognized memorial honoring the service of those over 4,000,000 Americans; and

WHEREAS, in 1919, the people of Kansas City, Missouri, expressed an outpouring of support and raised more than \$2 million in two weeks for a memorial to the service of Americans who served in World War I. This fund was an accomplishment unparalleled by any other city in the United States, irrespective of population; and

WHEREAS, on November 1, 1921, more than 100,000 people witnessed the dedication of the site for the Liberty Memorial in Kansas City, Missouri; and

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WHEREAS, General of the Armies John J. Pershing, a native of Missouri and the Commander of the American Expeditionary Forces in World War I, noted at the November 1, 1921, dedication that "the people of Kansas City, Missouri, are deeply proud of the beautiful memorial, erected in tribute to the patriotism, the gallant achievements, and the heroic sacrifices of their sons and daughters who served in our country's armed forces during the World War. It symbolized their grateful appreciation of duty well done, an appreciation which I share, because I know so well how richly it is merited"; and

WHEREAS, the 217 foot Liberty Memorial Tower has an inscription that reads, "In Honor of Those Who Served in the World War in Defense of Liberty and Our Country" as well as four stone "Guardian Spirits" representing courage, honors, patriotism, and sacrifices, which rise above the observation deck, making the Liberty Memorial a noble tribute to all who served in World War I; and

WHEREAS, the 106th Congress recognized the Liberty Memorial as a national symbol of World War I; and

WHEREAS, the 108th Congress designated the museum at the base of the Liberty Memorial as "American's National World War I Museum"; and

WHEREAS, the American's World War I Museum is the only public museum in the United States specifically dedicated to the history of World War I; and

WHEREAS, the National World War I Museum is known throughout the world as a major center of World War I remembrance:

NOW, THEREFORE, BE IT RESOLVED that the members of the House of Representatives of the Ninety-sixth General Assembly, First Regular Session, the Senate concurring therein, hereby urges the United States Congress to designate the Liberty Memorial, Kansas City, Missouri, at the National World War I Museum in Kansas City, Missouri, as the "National World War I Memorial"; and

BE IT FURTHER RESOLVED that the Chief Clerk of the Missouri House of Representatives be instructed to prepare properly inscribed copies of this resolution for the Majority Leader and Minority Leader of the United States Senate and United States House of Representatives, and each member of the Missouri Congressional delegation.

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#### **HOUSE CONCURRENT RESOLUTION NO. 15 [HCR 15]**

WHEREAS, baseball players called him "Skip" because John Jordan "Buck" O'Neil was the captain of the ship that sent more Negro League veterans ashore to the white Majors than any man in baseball history; and

WHEREAS, Buck O'Neil played briefly in 1937 with the Memphis Red Sox and debuted as a first baseman for the Kansas City Monarchs in 1938. In 1942, O'Neil led the Monarchs to a Negro American League title, hitting .353 during the Negro World Series in the Monarchs four-game sweep of the Homestead Grays; and

WHEREAS, O'Neil's achievements included being named to the East-West All-Star Classic in 1942, 1943, and 1949, managing the West squad in 1950, 1953, 1954, and 1955, and playing for the 1946 Satchel Paige All Stars; and

WHEREAS, in 1944, O'Neil enlisted for a two-year stint with the United States Navy, briefly interrupted his playing career. He returned to the Monarchs in 1946, admitting that he

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regretted the fact that he was not a member of the Monarchs in 1945 when the great Jackie Robinson played in Kansas City before signing with the Brooklyn Dodgers; and

WHEREAS, in 1948, O'Neil succeeded Frank Duncan as manager of the Kansas City Monarchs, continuing to manage the team until 1955. He guided the Monarchs to league titles in 1948, 1950, 1951, and 1953; and

WHEREAS, in 1956, O'Neil was hired by the Chicago Cubs as a scout, helping the team sign future Hall of Famer Lou Brock, and superstars Oscar Gamble, Lee Smith, and Joe Carter;

WHEREAS, O'Neil's greatest achievement came in 1962 when he became the first African-American coach in the Major Leagues with the Cubs. After 33 years as a Cubbie, he returned home in 1988 to scout for the Kansas City Royals; and

WHEREAS, in 1990, O'Neil began raising money for a museum to preserve and celebrate the history of the Negro Leagues. His efforts led to the opening of the Negro League Baseball Museum in Kansas City, serving as Chair of the Board of Directors from 1990 until his death in 2006. O'Neil also served on the Veterans' Committee of the National Baseball Hall of Fame, was posthumously awarded the Presidential Medal of Freedom, and is a member of the Missouri Sports Hall of Fame; and

WHEREAS, O'Neil gained national prominence with his compelling descriptions of the Negro Leagues as part of Ken Burns' 1994 PBS documentary on baseball; and

WHEREAS, on April 2, 2007, the Kansas City Royals honored O'Neil by placing a fan in the Buck O'Neil Legacy Seat in Kauffman Stadium each game who best exemplifies O'Neil's spirit. The seat is a red seat amidst the all-blue seats behind home plate in Section 127, Seat 9, Row C. The first person to sit in "Buck's seat" was Buck O'Neil's brother, Warren; and

WHEREAS, Buck O'Neil will be remembered as the first African-American coach in Major League Baseball and as one of the finest players in the Negro Leagues. Through his willingness to share his memories of the Negro Leagues, fans everywhere have a greater understanding and deeper appreciation for a significant period in baseball history:

NOW, THEREFORE, BE IT RESOLVED that the members of the House of Representatives of the Ninety-sixth General Assembly, First Regular Session, the Senate concurring therein, hereby designate November 13, 2011, as "Buck O'Neil Day" in Missouri and recommends to the people of the state that the day be appropriately observed with activities, events, and ceremonies in honor of the first African-American coach in Major League Baseball; and

BE IT FURTHER RESOLVED that the General Assembly requests that the Governor issue a proclamation setting apart November 13, 2011, as "Buck O'Neil Day" in Missouri; and

BE IT FURTHER RESOLVED that the Chief Clerk of the Missouri House of Representatives be instructed to prepare a properly inscribed copy of this resolution for Governor Jay Nixon.

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#### HOUSE CONCURRENT RESOLUTION NO. 23 [HCR 23]

WHEREAS, bicycling and walking are essential to millions of Missourians as basic transportation and enjoyed by millions of Missourians as healthful recreation and as part of a healthy lifestyle; and

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WHEREAS, encouraging and promoting a complete network of safe bicycle and pedestrian ways and routes is essential for those Missourians who rely on bicycling and walking for transportation, recreation, and health; and

WHEREAS, a safe and complete bicycle and pedestrian system is important for Missouri's economy and economic development; and

WHEREAS, world-class bicycling and walking facilities help promote Missouri as a leading tourist and recreation destination; and

WHEREAS, walking and bicycling improve the public health and reduce treatment costs for conditions associated with reduced physical activity, including obesity, heart disease, lung disease, and diabetes; and

WHEREAS, the United Health Foundation estimates direct medical costs associated with physical inactivity in Missouri at \$1.9 billion in 2008, and projects an annual cost for Missouri of over \$8 billion per year by 2018 if current trends continue; and

WHEREAS, the annual per capita cost of obesity is \$450 per Missourian, among the highest per capita costs of any state in the United States; and

WHEREAS, promoting walking and bicycling for transportation improves Missouri's environment, reduces congestion, reduces the need for expensive expansion of our road and highway systems, and reduces our dependence on foreign energy supplies; and

WHEREAS, creating healthy, walkable, bicycleable, and livable communities helps keep Missouri competitive in the global competition for high quality businesses and motivated, creative workers who consider transportation and recreation options an essential part of a healthy community; and

WHEREAS, Missourians who reach retirement age choose more often to walk and bicycle for fitness, recreation, enjoyment, and transportation; and

WHEREAS, citizens with disabilities often rely on walking, bicycling, and transit to meet basic transportation needs and to make connections with the transit system, face great obstacles within our current transportation system, and benefit greatly from complete and well designed accommodations for bicycling and walking; and

WHEREAS, all transit users depend on walking and bicycling to complete at least part of each transit trip; and

WHEREAS, the number of Missouri students who walk and bicycle to school has dropped dramatically over the past forty years, with 50% of students walking or bicycling in 1975 but only 15% in 2005. In the same period, the percentage of children clinically defined as overweight has increased from 8% to 25%; and

WHEREAS, the principles of Complete Streets are designed to create a transportation network that meets the needs of all users of the state's transportation system: pedestrians of all ages and abilities, bicyclists, disabled persons, public transportation vehicles and patrons, and those who travel in trucks, buses, and automobiles; and

WHEREAS, the term "Complete Streets" means creating roads, streets, and communities where all road users can feel safe, secure, and welcome on our roads and streets and throughout our communities; and

WHEREAS, the terms "livable streets" and "comprehensive street design" are also used to identify these same concepts; and

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WHEREAS, coordination and cooperation among many different agencies and municipalities is required to fully implement Complete Streets and create a complete, connected, and safe transportation network for walking and bicycling; and

WHEREAS, the cities of Elsberry, Pevely, Herculaneum, Crystal City, Festus, De Soto, Ferguson, Columbia, Lee's Summit, Kansas City, and St. Louis City have adopted Complete Streets or Livable Streets policies; and

WHEREAS, metropolitan planning organizations in the St. Joseph area, the Kansas City area, and the St. Louis area have adopted Complete Streets policies as part of the long-range planning process:

NOW, THEREFORE, BE IT RESOLVED that the members of the House of Representatives of the Ninety-sixth General Assembly, First Regular Session, the Senate concurring therein, hereby declare our support for Complete Streets policies and urge their adoption at the local, metropolitan, regional, state, and national levels; and

BE IT FURTHER RESOLVED that the General Assembly encourages and urges the United States Department of Transportation, the Missouri Department of Transportation, the governing bodies of Metropolitan Planning Organizations, and Regional Planning Commissions, municipalities, and other organizations and agencies that build, control, maintain, or fund roads, highways, and bridges in Missouri to adopt Complete Streets policies and to plan, design, build, and maintain their road and street system to provide complete, safe access to all road users; and

BE IT FURTHER RESOLVED that the Chief Clerk of the Missouri House of Representatives be instructed to prepare properly inscribed copies of this resolution for Ray LaHood, Secretary of the United States Department of Transportation; members of the Missouri Highway and Transportation Commission; the director of each Metropolitan Planning Agency and Regional Planning Commission in the State of Missouri; and the Missouri Municipal League.

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#### **HOUSE CONCURRENT RESOLUTION NO. 24 [HCR 24]**

BE IT RESOLVED, by the House of Representatives of the Ninety-sixth General Assembly, First Regular Session of the State of Missouri, the Senate concurring therein, that the House of Representatives and the Senate convene in Joint Session in the Hall of the House of Representatives at 2:00 p.m., Wednesday, February 9, 2011, to receive a message from the Honorable William Ray Price, Jr., Chief Justice of the Supreme Court of the State of Missouri; and

BE IT FURTHER RESOLVED, that a committee of ten (10) from the House be appointed by the Speaker to act with a committee of ten (10) from the Senate, appointed by the President Pro Tem, to wait upon the Chief Justice of the Supreme Court of the State of Missouri and inform His Honor that the House of Representatives and the Senate of the Ninety-sixth General Assembly, First Regular Session, are now organized and ready for business and to receive any message or communication that His Honor may desire to submit, and that the Chief Clerk of the House of Representatives be directed to inform the Senate of the adoption of this resolution.

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#### **HOUSE CONCURRENT RESOLUTION NO. 32 [HCR 32]**

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WHEREAS, Missouri's 57,000 state employees rank 50th out of the 50 states in their annual compensation, according to the most recent figures available from the United States Census Bureau; and

WHEREAS, with an average salary of \$38,184, the average state employee in Missouri earned 26% less than the United States average of \$51,507; and

WHEREAS, the three poorest states in the nation - West Virginia, Mississippi, and Arkansas - all rank ahead of Missouri in state employee annual compensation; and

WHEREAS, according to the United States Census Bureau, Missouri's full-time equivalent employment dropped 1.09%, and Missouri part-time employment dropped 8.47% from 2008 to 2009; and

WHEREAS, for December 2010, the Bureau of Labor Statistics of the United States Department of Labor reported an unemployment rate of 9.5%, the 15th highest percentage in the nation; and

WHEREAS, in his State of the State Address on January 19, 2011, Governor Nixon said that he has "cut state payroll by over 3,300 positions" since he took office in January 2009 and is recommending another 863 state employee positions be eliminated this year; and

WHEREAS, Governor Nixon acknowledged that "All across state government, a leaner workforce is doing more with less."; and

WHEREAS, if the recommended cuts are enacted in the 2012 fiscal year budget, Missouri's full-time employee payroll will drop to approximately 56,500 positions, with the largest reductions in the departments of Mental Health and Social Services; and

WHEREAS, in asking state employees to "do more with less", it is vitally important that the State of Missouri attract and maintain a talented and dedicated workforce in order to best serve the needs of our citizens; and

WHEREAS, one of the keys to attracting and maintaining a talented and dedicated workforce will be to raise the annual compensation of our state workforce so we are no longer ranked 50th among the 50 states in state employee compensation:

NOW, THEREFORE, BE IT RESOLVED that the members of the House of Representatives of the Ninety-sixth General Assembly, First Regular Session, the Senate concurring therein, hereby establish a Joint Interim Committee on State Employee Wages; and

BE IT FURTHER RESOLVED that the Committee shall:

(1) Compare the wages of Missouri state employees to the wages for state employees in other states;

(2) Study and develop strategies for increasing the wages of Missouri's state employees so Missouri will no longer rank 50th among states regarding state worker wages;

(3) Report its recommendations to the House Budget Committee and the Senate Appropriations Committee by December 31, 2011; and

(4) Such other matters as the Joint Interim Committee may deem necessary in order to determine the proper course of future legislative and budgetary action regarding these issues; and

BE IT FURTHER RESOLVED that the Committee shall be composed of the following ten members:

(1) Two majority party members and one minority party member of the House of Representatives, to be appointed by the Speaker of the House and Minority Leader of the House;

(2) Two majority party members and one minority party member of the Senate, to be appointed by the President Pro Tem of the Senate and the Minority Leader of the Senate;

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- (3) One representative from the Governor's Office;
- (4) One representative from the State Personnel Advisory Board; and
- (5) Two members of the public, with one to be appointed by the Speaker of the House of Representatives and one to be appointed by the President Pro Tem of the Senate; and

BE IT FURTHER RESOLVED that the Joint Interim Committee is authorized to function during the legislative interim between the First Regular Session of the Ninety-sixth General Assembly through December 31, 2011; and

BE IT FURTHER RESOLVED that the Joint Interim Committee may solicit input and information necessary to fulfill its obligations, including, but not limited to, soliciting input and information from any state department or agency the Joint Interim Committee deems relevant, and the general public; and

BE IT FURTHER RESOLVED that the staffs of Senate Appropriations, Senate Research, House Appropriations, House Research, and the Joint Committee on Legislative Research shall provide such legal, research, clerical, technical, and bill drafting services as the Joint Interim Committee may require in the performance of its duties; and

BE IT FURTHER RESOLVED that the actual and necessary expenses of the Joint Interim Committee, its members, and any staff assigned to the Joint Interim Committee incurred by the Joint Interim Committee shall be paid by the Joint Contingent Fund.

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#### **HOUSE CONCURRENT RESOLUTION NO. 34 [HCR 34]**

WHEREAS, the Mark Twain National Forest, the only national forest in Missouri, is 1.5 million acres spread across 29 counties, with 1.4 million acres open to public hunting, 14 floatable streams, and 16 lakes ranging from 3 to 44 acres; and

WHEREAS, the Mark Twain National Forest is located in southern and central Missouri, and extends from the St. Francois Mountains in the southeast to dry rocky glades in the southwest, from the prairies lands along the Missouri River to the nation's most ancient mountains in the south; and

WHEREAS, the Mark Twain National Forest is popular with hunters, trappers, anglers, and persons who enjoy observing, studying, and photographing wildflowers and wildlife; and

WHEREAS, the Mark Twain National Forest has approximately 320 species of birds, 75 species of mammals, and 125 species of amphibians and reptiles; and

WHEREAS, named after Missouri native, Mark Twain, the National Forest gets a variety of visitors through the year, including spring and fall, when color changes the forest; and

WHEREAS, on January 8, 2009, the United States Forest Service Travel Management Rule, 36 CFR 212, Subpart B, became effective. This Rule requires each national forest or ranger district to designate those roads, trails, and areas open to motor vehicles; and

WHEREAS, the designations under the Rule include class of vehicle and, where appropriate, time of year for motor vehicle use; and

WHEREAS, once these designations are completed, the Rule will prohibit motor vehicle use off the designated system or inconsistent with the designations; and

WHEREAS, these designations will be made locally, with public input and in coordination with state, local, and tribal governments; and

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WHEREAS, these designations will be shown on a motor vehicle map, with any use inconsistent with those designations prohibited; and

WHEREAS, the Travel Management Rule limits access to areas of the forest, especially for the disabled and elderly. Many disabled and elderly persons enjoy hunting, fishing, and observing nature and wildlife; and

WHEREAS, many areas of the forest are only accessible by hiking, so further restrictions on motor vehicle usage in the National Forest will significantly reduce access to the wide range of learning and recreational opportunities available in the Mark Twain National Forest:

NOW, THEREFORE, BE IT RESOLVED that the members of the House of Representatives of the Ninety-sixth General Assembly, First Regular Session, the Senate concurring therein, hereby urge the United States Forest Service to amend or rescind the Travel Management Rule, 36 CFR 212, Subpart B, and allow an increase in motor vehicle access to areas of the Mark Twain National Forest; and

BE IT FURTHER RESOLVED that the Chief Clerk of the Missouri House of Representatives be instructed to prepare properly inscribed copies of this resolution for Tom Tidwell, Chief of the United States Forest Service, and each member of the Missouri Congressional Delegation.

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#### **HOUSE CONCURRENT RESOLUTION NO. 37 [HCR 37]**

#### **AN ACT**

Relating to the recognition of every third week in June  
as Diabetic Peripheral Neuropathy Week.

WHEREAS, Diabetic Peripheral Neuropathy (DPN) is a serious condition that results from damage to nerves due to prolonged exposure to high amounts of glucose in the bloodstream as a result of diabetes; and

WHEREAS, more than half of all diabetics suffer from DPN, and the areas of the body most commonly affected by DPN are the feet and legs; and

WHEREAS, nerve damage in the feet can result in the loss of foot sensation, increasing risk of foot problems and which manifests itself in intense pain often described as aching, tingling, burning, and numbness; and

WHEREAS, in 2009, 364,000 Missourians were diagnosed with diabetes; and

WHEREAS, DPN is the leading cause of amputations, and as many as 40 to 60 percent of lower extremity amputations are due to severe forms of DPN; and

WHEREAS, DPN is preventable only to the extent that the underlying cause is preventable, requiring the individual patient's alert awareness of bodily deficiency, illness, infection or injury that can cause DPN, and the individual's willingness to seek early diagnosis and treatment; and

WHEREAS, it is absolutely fitting and proper to designate a special week to raise public awareness of DPN and its symptoms:

NOW, THEREFORE, BE IT RESOLVED that the members of the Missouri House of Representatives, Ninety-Sixth General Assembly, First Regular Session, the Senate concurring

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therein, hereby recognize the third week of June of each year as Diabetic Peripheral Neuropathy (DPN) Week in Missouri; and

BE IT FURTHER RESOLVED that the members of the Missouri House of Representatives and Senate encourage citizens throughout Missouri to observe this week by raising public awareness regarding the symptoms and treatment of this painful and dangerous neuropathy; and

BE IT FURTHER RESOLVED that the Chief Clerk of the Missouri House of Representatives be instructed to prepare a properly inscribed copy of this resolution for the Governor for his approval or rejection pursuant to the Missouri Constitution.

Approved June 17, 2011

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**HOUSE COMMITTEE SUBSTITUTE FOR  
HOUSE CONCURRENT RESOLUTION NO. 39 [HCS HCR 39]**

WHEREAS, Grant's Farm is an extraordinary treasure for the entire state and is one of the premiere attractions for visitors coming to St. Louis from across the country and the world; and

WHEREAS, Grant's Farm takes its name from our 18th President of the United States, Ulysses S. Grant. In the 1850s, Grant founded and owned the 281 acres comprising Grant's Farm; and

WHEREAS, Grant's Farm averages over 550,000 visitors per year over the last six years and is a vital economic engine in St. Louis County; and

WHEREAS, Grant's Farm, operated by Anheuser-Busch, Inc., has been a St. Louis tradition for more than five decades, employing more than 200 people and has welcomed more than 24 million visitors during its history; and

WHEREAS, Grant's Farm is home to more than 900 animals representing more than 100 different species, including a zoo with more than 400 animals; and

WHEREAS, in the U.S. Family Guide Zagat Survey of more than 11,000 avid travelers, Grant's Farm ranked overall as the 7th best family attraction nationwide; and

WHEREAS, some of Grant's Farm's attractions include:

(1) Deer Park, home to a variety of exotic animal species from six of the seven continents of the world and a variety of fish in the several beautiful lakes throughout Deer Park;

(2) Tier Garten, which provides visitors with an up close look at an amazing variety of animals and which includes an amphitheater featuring educational and entertaining animal shows;

(3) Grant's Cabin, built on 80 acres received by Ulysses S. Grant and his new bride in 1848 as a wedding gift. In 1855, Grant did much of the log sawing and construction himself, completed the four-room, two-story cabin in just three days with the help of friends;

(4) The Bauernhof, the first building constructed on the Busch family estate which today is the home of the Busch family's world-renowned carriage collection and stables. Bauernhof is German for "farmstead";

(5) The Clydesdale Stables, home to one of the world's largest herd of Clydesdale horses with approximately 25 Clydesdale mares, geldings, stallions and foals. Only the finest Clydesdales from this stable become part of the Budweiser teams; and

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WHEREAS, more than twenty local organizations and political subdivisions in the St. Louis County region have passed resolutions in support of incorporating Grant's Farm as a unit of the National Park Service; and

WHEREAS, to preserve this extraordinary treasure, Grant's Farm should be added as a unit of the National Park Service by joining with the Ulysses S. Grant National Historic Site:

NOW, THEREFORE, BE IT RESOLVED that the members of the House of Representatives of the Ninety-sixth General Assembly, First Regular Session, the Senate concurring therein, hereby strongly support the incorporation of, and urge the United States Department of the Interior to incorporate, Grant's Farm as a unit of the National Park Service by joining with the Ulysses S. Grant National Historic Site; and

BE IT FURTHER RESOLVED that the Chief Clerk of the Missouri House of Representatives be instructed to prepare a properly inscribed copy of this resolution for the Secretary of the Interior, Ken Salazar, and each member of the Missouri Congressional Delegation.

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#### **HOUSE CONCURRENT RESOLUTION NO. 42 [HCR 42]**

WHEREAS, the United States Environmental Protection Agency (EPA) has proposed or is proposing numerous new regulations, particularly in the area of air quality and regulation of greenhouse gases, that are likely to have major effects on the economy, jobs, and the competitiveness of the United States in worldwide markets; and

WHEREAS, EPA's regulatory activity as to air quality and greenhouse gases has numerous and overlapping requirements and may have a potentially devastating consequence on the economy; and

WHEREAS, concern is growing that, with Cap-and-Trade legislation having failed in the United States Congress, EPA is attempting to obtain the same results through the adoption of regulations; and

WHEREAS, EPA over-regulation is driving jobs and industry out of the United States; and

WHEREAS, neither EPA nor the Administration has undertaken any comprehensive study of what the cumulative effect that the new regulatory activity will have on the economy, jobs, and competitiveness; and

WHEREAS, EPA has not performed any comprehensive study of what the environmental benefits of its greenhouse gas regulation will be in terms of impacts on global climate; and

WHEREAS, state agencies are routinely required to identify the costs of their regulations and to justify those costs in light of the benefits; and

WHEREAS, since EPA has identified "taking action on climate change and improving air quality" as its first strategic goal for the 2011-15 time period, EPA should be required to identify the specific actions it intends to take to achieve these goals and to assess the total cost of all these actions together; and

WHEREAS, the Missouri General Assembly supports continuing improvements in the quality of the nation's air and believes that such improvements can be made in a sensible fashion without damaging the economy so long as there is a full understanding of the cost of the regulation at issue; and

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WHEREAS, the primary goal of government at the present time must be to promote economic recovery and to foster a stable and predictable business environment that will lead to the creation of jobs; and

WHEREAS, public health and welfare will suffer without significant new job creation and economic improvement, because people with good jobs are better able to take care of themselves and their families than the unemployed and because environmental improvement is only possible in a society that generates wealth:

NOW, THEREFORE, BE IT RESOLVED that the members of the House of Representatives of the Ninety-sixth General Assembly, First Regular Session, the Senate concurring therein, hereby urge the United States Congress to:

(1) Adopt legislation prohibiting EPA, by any means necessary, from regulating greenhouse gas emissions, including defunding EPA greenhouse gas regulatory activities, if necessary;

(2) Impose a moratorium on promulgation of any new air quality regulation by EPA, by any means necessary, except to directly address an imminent health or environmental emergency, for a period of at least two years, including defunding EPA air quality regulatory activities; and

(3) Require the Administration to undertake a study identifying all regulatory activity the EPA intends to undertake in furtherance of its goal of "taking action on climate change and improving air quality" and specifying the cumulative effect of all of these regulations on the economy, jobs, and the economic competitiveness of the United States. The study should be a multi-agency study drawing on the expertise both of EPA and of agencies and departments having expertise in and responsibility for the economy and the electric system and should provide an objective cost-benefit analysis of all the EPA's current and planned regulation together; and

BE IT FURTHER RESOLVED that the Chief Clerk of the Missouri House of Representatives be instructed to prepare a properly inscribed copy of this resolution for the President of the United States; the Majority and Minority Leaders of the United States House of Representatives and Senate; Lisa P. Jackson, the Administrator of the Environmental Protection Agency; and each member of the Missouri Congressional delegation.

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**SENATE CONCURRENT RESOLUTION NO. 1 [SCR 1]**

Relating to disapproval under  
Article IV, Section 8  
of the Missouri Constitution  
the final order of rulemaking  
for the proposed amendment to  
4 CSR 240-20.100(2)(A)  
and 4 CSR 240-20.100(2)(B)2  
regarding the  
Electric Utility Renewable  
Energy Standard Requirements.

WHEREAS, the Public Service Commission filed a proposed amendment for 4 CSR 240-20.100 on January 8, 2010, and filed the order of rulemaking with the Joint Committee on Administrative Rules on June 2, 2010 and filed an amended order of rulemaking with the Joint Committee on Administrative Rules on July 1, 2010; and

WHEREAS, the Joint Committee on Administrative Rules held hearings on June 24, June 30, and July 1, 2010, and has found 4 CSR 240-20.100(2)(A) and 4 CSR 240-20.100(2)(B)2, lacking in compliance with the provisions of Chapter 536, RSMo:

NOW THEREFORE BE IT RESOLVED that the General Assembly finds that the Public Service Commission has violated the provisions of Chapter 536, RSMo, when it failed to comply with the provisions of section 536.014, RSMo; and

BE IT FURTHER RESOLVED that the Ninety-sixth General Assembly, upon concurrence of a majority of the members of the Senate and a majority of the members of the House of Representatives, hereby permanently disapproves and suspends the final order of rulemaking for the proposed amendment to 4 CSR 240-20.100(2)(A) and 4 CSR 240-20.100(2)(B)2, Electric Utility Renewable Energy Standard Requirements; and

BE IT FURTHER RESOLVED that a copy of the foregoing be submitted to the Secretary of State so that the Secretary of State may publish in the Missouri Register, as soon as practicable, notice of the disapproval of the final order of rulemaking for the proposed amendment to 4 CSR 240-20.100(2)(A) and 4 CSR 240-20.100(2)(B)2, upon this resolution having been signed by the Governor or having been approved by two-thirds of each house of the Ninety-sixth General Assembly, First Regular Session, after veto by the Governor as provided in Article III, Sections 31 and 32, and Article IV, Section 8 of the Missouri Constitution; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for the Governor in accordance with Article IV, Section 8 of the Missouri Constitution.

February 16, 2011

Honorable Robert N. Mayer  
Senate President Pro Tem  
State Capitol, Room 326  
Jefferson City, MO 65101

Honorable Steven Tilley  
Speaker of the House  
State Capitol, Room 308  
Jefferson City, MO 65101

Honorable Victor Callahan  
Senate Minority Floor Leader  
State Capitol, Room 333  
Jefferson City, MO 65101

Honorable Mike Talboy  
House Minority Floor Leader  
State Capitol, Room 204  
Jefferson City, MO 65101

Dear Gentlemen:

This letter shall serve as notice of my action on Senate Concurrent Resolution No. 1. On January 26, 2011, the Public Service Commission approved an order withdrawing 4 CSR 240-20.100(2)(A) and 4 CSR 240-20.100(2)(B)2 pertaining to geographic sourcing. Twelve days later, on February 7, 2011, I was presented with Senate Concurrent Resolution No. 1 which purports to disapprove those same regulations. The action of the Public Service Commission approving an order to withdraw the relevant regulations renders Senate Concurrent Resolution No. 1 moot and therefore makes the approval or disapproval of Senate Concurrent Resolution No. 1 unnecessary.<sup>1</sup>

Sincerely,  
Jeremiah W. (Jay) Nixon  
Governor

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<sup>1</sup> I am cognizant of the argument asserted by two members of the Public Service Commission that the Commission lacked authority to withdraw these regulations. I disagree with that view and find that the Public Service Commission was clearly vested with the necessary power to issue its January 26, 2011 order. While I am not approving this legislative resolution rendered unnecessary by mootness, I recognize that my action will allow Senate Concurrent Resolution No. 1 to become effective through Article III, Section 31 of the Missouri Constitution. This approach will not change the inevitable result – the relevant rules being withdrawn – but will eliminate future uncertainty surrounding the status of these rules and appropriately return our collective focus to developing a vibrant renewable energy industry in Missouri.

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**SENATE CONCURRENT RESOLUTION NO. 2 [SCR 2]**

WHEREAS, excessive and misdirected light is considered energy waste and misuse; and

WHEREAS, current research by the National Park Service indicates the rate at which light pollution is increasing will leave almost no dark skies in the contiguous United States by 2025; and

WHEREAS, many Missouri state parks have an impaired view of the night sky due to light pollution; and

WHEREAS, Missouri state facilities have the duty and responsibility to demonstrate best practices in energy conservation and reduce all visible signs of energy waste:

NOW THEREFORE BE IT RESOLVED that the members of the Senate of the Ninety-sixth General Assembly, First Regular Session, the House of Representatives concurring therein, hereby urge the Department of Natural Resources to provide public education on light pollution and develop guidelines to address light pollution in new and existing state facilities; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare a properly inscribed copy of this resolution for the director of each state department.

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**SENATE CONCURRENT RESOLUTION NO. 7 [SCR 7]**

WHEREAS, Section 21.760 of the Revised Statutes of Missouri provides that during the regular legislative session which convenes in an odd-numbered year, the General Assembly shall, by concurrent resolution, employ an independent certified public accountant or certified public accounting firm to conduct an audit examination of the accounts, functions, programs, and management of the State Auditor's office:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-sixth General Assembly, First Regular Session, the House of Representatives concurring therein, hereby authorize the employment of an independent certified public accountant or certified public accounting firm pursuant to the provisions of Section 21.760; and

BE IT FURTHER RESOLVED that the audit examination be made in accordance with generally accepted auditing standards, including such reviews and inspections of books, records and other underlying data and documents as are necessary to enable the independent certified public accountant performing the audit to reach an informed opinion on the condition and performance of the accounts, functions, programs, and management of the State Auditor's Office; and

BE IT FURTHER RESOLVED that upon completion of the audit, the independent certified public accountant make a written report of his or her findings and conclusions, and supply each member of the General Assembly, the Governor, and the State Auditor with a copy of the report; and

BE IT FURTHER RESOLVED that the cost of the audit and report be paid out of the joint contingent fund of the General Assembly; and

BE IT FURTHER RESOLVED that the Commissioner of Administration bid these services, at the direction of the General Assembly, pursuant to state purchasing laws; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare a properly inscribed copy of this resolution for the Commissioner of Administration.

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**SENATE CONCURRENT RESOLUTION NO. 11 [SCR 11]**

Relating to the recognition of every third week in  
June as Diabetic Peripheral Neuropathy Week

WHEREAS, Diabetic Peripheral Neuropathy (DPN) is a serious condition that results from damage to nerves due to prolonged exposure to high amounts of glucose in the bloodstream as a result of diabetes; and

WHEREAS, more than half of all diabetics suffer from DPN, and the areas of the body most commonly affected by DPN are the feet and legs; and

WHEREAS, nerve damage in the feet can result in the loss of foot sensation, increasing risk of foot problems and which manifests itself in intense pain often described as aching, tingling, burning, and numbness; and

WHEREAS, in 2009, 364,000 Missourians were diagnosed with diabetes; and

WHEREAS, DPN is the leading cause of amputations, and as many as 40 to 60 percent of lower extremity amputations are due to severe forms of DPN; and

WHEREAS, DPN is preventable only to the extent that the underlying cause is preventable, requiring the individual patient's alert awareness of bodily deficiency, illness, infection or injury that can cause DPN, and the individual's willingness to seek early diagnosis and treatment; and

WHEREAS, it is absolutely fitting and proper to designate a special week to raise public awareness of DPN and its symptoms:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-sixth General Assembly, First Regular Session, the House of Representatives concurring therein, hereby recognize the third week of June of each year as Diabetic Peripheral Neuropathy (DPN) Week in Missouri; and

BE IT FURTHER RESOLVED that the members of the Missouri Senate and the House of Representatives encourage citizens throughout Missouri to observe this week by raising public awareness regarding the symptoms and treatment of this painful and dangerous neuropathy; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to send properly inscribed copies of this resolution to the Governor for his approval or rejection pursuant to the Missouri Constitution.

Approved June 17, 2011

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**SENATE CONCURRENT RESOLUTION NO. 12 [SCR 12]**

WHEREAS, atrial fibrillation (AFib) is the most common serious heart rhythm disorder and causes 15 percent of all strokes in the United States; and

WHEREAS, AFib affects more than 2.3 million Americans and is expected to more than double to 5.6 million Americans by 2050; and

WHEREAS, one in four people aged 40 years or older develop AFib during their lifetime; and

WHEREAS, AFib causes the heart to beat irregularly or out of rhythm. As a result, people with AFib are nearly five times more likely to have a stroke than someone without the condition.

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In addition, AFib-related strokes are about twice as likely to be fatal and about twice as likely to be severely disabling than strokes that are not related to AFib; and

WHEREAS, three out of four AFib-related strokes can be prevented, but many patients are not aware of their risk and do not take action to prevent stroke; and

WHEREAS, the estimated direct medical cost of stroke for 2007 was \$25.2 billion. This includes hospital outpatient or office-based provider visits, hospital inpatient stays, emergency room visits, prescribed medicines, and home health; and

WHEREAS, appropriate stroke prevention in AFib can effectively reduce the overall financial burden of the illness within public programs such as Medicaid and Medicare; and

WHEREAS, reducing the risk of stroke related to AFib may maintain self sufficiency on the part of patients cared for within public programs:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-sixth General Assembly, First Regular Session, the House of Representatives concurring therein, hereby urge the MO HealthNet Division to pursue the feasibility of implementing a program to assess chronic disease management of stroke prevention in atrial fibrillation using available general appropriations and/or private sources of funding in an effort to identify opportunities to reduce the financial and clinical burden of AFib-related strokes upon Missouri, and public programs including Medicare and Medicaid; and

BE IT FURTHER RESOLVED that at the conclusion of such an assessment, a report of findings and recommendations be prepared and provided to the General Assembly by December 31, 2011, so that it can evaluate the effectiveness of the current quality of care within public programs including Medicare and Medicaid and in providing recommendations for improved health and well being of the affected patients; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to send properly inscribed copies of this resolution to the director of the MO HealthNet Division.

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**LAWS PASSED**  
**DURING THE**  
**NINETY-SIXTH**  
**GENERAL ASSEMBLY,**  
**FIRST EXTRAORDINARY SESSION**

**CONVENED TUESDAY, SEPTEMBER 6, 2011.**  
**SENATE ADJOURNED SINE DIE ON**  
**TUESDAY, OCTOBER 25, 2011,**  
**AND HOUSE ADJOURNED**  
**THURSDAY, OCTOBER 27, 2011,**  
**RESULTING IN AN AUTOMATIC SINE DIE**  
**ADJOURNMENT OF THE GENERAL ASSEMBLY**  
**UNDER THE MISSOURI CONSTITUTION ON**  
**SATURDAY, NOVEMBER 5, 2011.**

## SB 1 [SCS SB 1]

**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**Modifies provisions relating to communications between school district employees and students**

AN ACT to repeal section 162.069, RSMo, and to enact in lieu thereof one new section relating to communications between school district employees and students.

SECTION

A. Enacting clause.

162.069. Employee-student communications, written policy required — training materials, required content.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Section 162.069, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 162.069, to read as follows:

**162.069. EMPLOYEE-STUDENT COMMUNICATIONS, WRITTEN POLICY REQUIRED — TRAINING MATERIALS, REQUIRED CONTENT.** — 1. Every school district shall, by [January] **March** 1, 2012, promulgate a written policy concerning [teacher-student communication and] employee-student communication. Such policy shall [contain at least the following elements:

(1) Appropriate oral and nonverbal personal communication, which may be combined with or included in any policy on sexual harassment; and

(2) Appropriate use of electronic media such as text messaging and internet sites for both instructional and personal purposes, with an element concerning use of social networking sites no less stringent than the provisions of subsections 2, 3, and 4 of this section] **include, but not be limited to, the use of electronic media and other mechanisms to prevent improper communications between staff members and students.**

2. [As used in this section, the following terms shall mean:

(1) "Exclusive access", the information on the website is available only to the owner (teacher) and user (student) by mutual explicit consent and where third parties have no access to the information on the website absent an explicit consent agreement with the owner (teacher);

(2) "Former student", any person who was at one time a student at the school at which the teacher is employed and who is eighteen years of age or less and who has not graduated;

(3) "Nonwork-related internet site", any internet website or web page used by a teacher primarily for personal purposes and not for educational purposes;

(4) "Work-related internet site", any internet website or web pages used by a teacher for educational purposes.

3. No teacher shall establish, maintain, or use a work-related internet site unless such site is available to school administrators and the child's legal custodian, physical custodian, or legal guardian.

4. No teacher shall establish, maintain, or use a nonwork-related internet site which allows exclusive access with a current or former student. Nothing in this subsection shall be construed as prohibiting a teacher from establishing a nonwork-related internet site, provided the site is used in accordance with this section.

5.] Every school district shall, by July 1, 2012, include in its teacher and employee training a component that provides up-to-date and reliable information on identifying signs of sexual abuse in children and danger signals of potentially abusive relationships between children and adults. The training shall emphasize the importance of mandatory reporting of abuse under section 210.115

including the obligation of mandated reporters to report suspected abuse by other mandated reporters, and how to establish an atmosphere of trust so that students feel their school has concerned adults with whom they feel comfortable discussing matters related to abuse.

Approved October 21, 2011

## SB 7 [SS SCS SB 7]

**EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

### **Establishes the Missouri Science and Innovation Reinvestment Act**

AN ACT to repeal sections 196.1109, 196.1115, 348.251, 348.253, 348.256, 348.261, 348.262, 348.263, 348.264, 348.271, and 348.300, RSMo, and to enact in lieu thereof fourteen new sections relating to science and innovation, with a contingent effective date.

#### SECTION

- A. Enacting clause.
- 196.1109. Moneys appropriated from trust fund, purposes.
- 196.1115. Board's powers, duties and limitation on expenditures.
- 348.250. Citation.
- 348.251. Missouri technology corporation, established — definitions — public hearing, notice.
- 348.256. Articles of incorporation, bylaws, methods of operation, content — members, qualifications — audits — evaluations — tax exemptions — conflicts of interest.
- 348.257. Executive committee established, members, duties — audit committee, duties — research alliance, report, contents — rules authority.
- 348.261. Powers — leveraging of nonstate resources — moneys, authority over — notice of financial assistance recipients to general assembly.
- 348.262. Department may contract with corporations.
- 348.263. Open meetings and sunshine law applicability — records, requirements.
- 348.264. Science and innovation reinvestment fund established — source of funds — purpose.
- 348.265. Base year gross wages calculation — transfer of funds, amount — expenditure of funds — strategic plan required.
- 348.269. No limitation on enumerated powers — prior authorization of general assembly for sale of assets — inapplicability of sunset act — severability clause.
- 348.271. Innovation centers to be established to develop new science and innovation-based business duties, reports — match requirements.
- 348.300. Definitions.
- 348.253. Contracts with not-for-profit organizations, objectives.
- B. Contingent effective date.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

**SECTION A. ENACTING CLAUSE.** — Sections 196.1109, 196.1115, 348.251, 348.253, 348.256, 348.261, 348.262, 348.263, 348.264, 348.271, and 348.300, RSMo, are repealed and fourteen new sections enacted in lieu thereof, to be known as sections 196.1109, 196.1115, 348.250, 348.251, 348.256, 348.257, 348.261, 348.262, 348.263, 348.264, 348.265, 348.269, 348.271, and 348.300, to read as follows:

**196.1109. MONEYS APPROPRIATED FROM TRUST FUND, PURPOSES.** — All moneys that are appropriated by the general assembly from the life sciences research trust fund shall be appropriated to the life sciences research board to increase the capacity for quality of life sciences research at public and private not-for-profit institutions in the state of Missouri and to thereby:

- (1) Improve the quantity and quality of life sciences research at public and private not-for-profit institutions, including but not limited to basic research (including the discovery of

new knowledge), translational research (including translating knowledge into a usable form), and clinical research (including the literal application of a therapy or intervention to determine its efficacy), including but not limited to health research in human development and aging, cancer, endocrine, cardiovascular, neurological, pulmonary, and infectious disease, and plant sciences, including but not limited to nutrition and food safety; and

(2) Enhance technology transfer and technology commercialization derived from research at public and private not-for-profit institutions within the centers for excellence. For purposes of sections 196.1100 to 196.1130, "technology transfer and technology commercialization" includes stages of the regular business cycle occurring after research and development of a life science technology, including but not limited to reduction to practice, proof of concept, and achieving federal Food and Drug Administration, United States Department of Agriculture, or other regulatory requirements in addition to the definition in section 348.251. Funds received by the board may be used for purposes authorized in sections 196.1100 to 196.1130 and shall be subject to the restrictions of sections 196.1100 to 196.1130, including but not limited to the costs of personnel, supplies, equipment, and renovation or construction of physical facilities; provided that in any single fiscal year no more than [ten] **thirty** percent of the moneys appropriated shall be used for the construction of physical facilities and further provided that in any fiscal year **up to** eighty percent of the moneys shall be appropriated to build research capacity at public and private not-for-profit institutions and **at least** twenty percent **and no more than fifty percent** of the moneys shall be appropriated for grants to public or private not-for-profit institutions to promote life science technology transfer and technology commercialization. Of the moneys appropriated to build research capacity, twenty percent of the moneys shall be appropriated to promote the development of research of tobacco-related illnesses.

**196.1115. BOARD'S POWERS, DUTIES AND LIMITATION ON EXPENDITURES.** — 1. The moneys appropriated to the life sciences research board that are not distributed by the board in any fiscal year to a center for excellence or a center for excellence endorsed program pursuant to section 196.1112, if any, shall be held in reserve by the board or shall be awarded on the basis of peer review panel recommendations for capacity building initiatives proposed by public and private not-for-profit academic, research, or health care institutions or organizations, or individuals engaged in competitive research in targeted fields consistent with the provisions of sections 196.1100 to 196.1130.

2. The life sciences research board may, in view of the limitations expressed in section 196.1130:

- (1) Award and enter into grants or contracts relating to increasing Missouri's research capacity at public or private not-for-profit institutions;
- (2) Make provision for peer review panels to recommend and review research projects;
- (3) Contract for [administrative and] support services;
- (4) Lease or acquire facilities and equipment;
- (5) Employ administrative staff; and
- (6) Receive, retain, hold, invest, disburse or administer any moneys that it receives from appropriations or from any other source.

**3. The Missouri technology corporation, established under section 348.251, shall serve as the administrative agent for the life sciences research board.**

**4. The life sciences research board shall utilize as much of the moneys as reasonably possible for building capacity at public and private not-for-profit institutions to do research rather than for administrative expenses. The board shall not in any fiscal year expend more than two percent of the total moneys appropriated to it and of the moneys that it has in reserve or has received from other sources for its own administrative expenses for appropriations equal to or greater than twenty million dollars; three percent for appropriations less than twenty**

million dollars but equal to or greater than fifteen million dollars; four percent for appropriations less than fifteen million dollars but equal to or greater than ten million dollars; five percent for appropriations less than ten million dollars; provided, however, that the general assembly by appropriation from the life sciences research trust fund may authorize a limited amount of additional moneys to be expended for administrative costs.

**348.250. CITATION.** — Sections 348.250 to 348.275 shall be known and may be cited as the "Missouri Science and Innovation Reinvestment Act".

**348.251. MISSOURI TECHNOLOGY CORPORATION, ESTABLISHED — DEFINITIONS — PUBLIC HEARING, NOTICE.** — 1. As used in sections 348.251 to 348.266, the following terms mean:

- (1) "Applicable percentage", six percent for the fiscal year beginning July 1, 2012, and the next fourteen consecutive fiscal years; five percent for the immediately subsequent five fiscal years; and four percent for the immediately subsequent five fiscal years;
- (2) "Applied research", any activity that seeks to utilize, synthesize, or apply existing knowledge, information, or resources to the resolution of a specific problem, question, or issue of science and innovation, including but not limited to translational research;
- (3) "Base year", fiscal year ending June 30, 2010;
- (4) "Base year gross wages", gross wages paid by science and innovation companies to science and innovation employees during fiscal year ending June 30, 2010;
- (5) "Basic research", any original investigation for the advancement of scientific or technical knowledge of science and innovation;
- (6) "Commercialization", any of the full spectrum of activities required for a new technology, product, or process to be developed from the basic research or conceptual stage through applied research or development to the marketplace, including without limitation, the steps leading up to and including licensing, sales, and service;
- (7) "Corporation", the Missouri technology corporation established under this section;
- (8) "Fields of applicable expertise", any of the following fields: science and innovation research, development, or commercialization, including basic research and applied research; corporate finance, venture capital, and private equity related to science and innovation; the business and management of science and innovation companies; education related to science and innovation; or civic or corporate leadership in areas related to science and innovation;
- (9) "Inherent conflict of interest", a fundamental or systematic conflict of interest that prevents a person from serving as a disinterested director of the corporation and from routinely performing his or her duties as a director of the corporation;
- (10) "NAICS industry groups" or "NAICS codes", the North American Industry Classification System developed under the auspices of the United States Office of Management and Budget and adopted in 1997, as may be amended, revised, or replaced by similar classification systems for similar uses from time to time;
- (11) "Science and innovation", the use of compositions and methods in research, development, and manufacturing processes for such diverse areas as agriculture-biotechnology, animal health, biochemistry, bioinformatics, energy, environment, forestry, homeland security, information technology, medical devices, medical diagnostics, medical instruments, medical therapeutics, microbiology, nanotechnology, pharmaceuticals, plant biology, and veterinary medicine, including future developments in such areas;

(12) "Science and innovation company", a corporation, limited liability company, S corporation, partnership, registered limited liability partnership, foundation, association, nonprofit entity, sole proprietorship, business trust, person, group, or other entity that is:

(a) Engaged in the research, development, commercialization, or business of science and innovation in the state, including, without limitation, research, development, or production directed toward developing or providing science and innovation products, processes, or services for specific commercial or public purposes, including hospitals, nonprofit research institutions, incubators, accelerators, and universities currently located or involved in the research, development, commercialization, or business of science and innovation in the state; or

(b) Identified by the following NAICS industry groups or NAICS codes or any amended or successor code sections covering such areas of research, development, and commercial endeavors: 3251; 3253; 3254; 3391; 51121; 54138; 54171; 62231; 111191; 111421; 111920; 111998; 311119; 311211; 311221; 311222; 311223; 325193; 325199; 325221; 325222; 325611; 325612; 325613; 325311; 325312; 325314; 325320; 325411; 325412; 325414; 333298; 334510; 334516; 334517; 339111; 339112; 339113; 339114; 339115; 339116; 424910; 541710; 621511; and 621512.

Each of the above listed four-digit and five-digit codes shall include all six-digit codes in such four-digit and five-digit industry; however, each six-digit code shall stand alone and not indicate the inclusion of other omitted six-digit codes that also are subsets of the pertinent four-digit or five-digit industry to which the included six-digit code belongs;

(13) "Science and innovation employee", any employee, officer, or director of a science and innovation company who is a state income taxpayer and any employee of a university who is associated with or supports the research, development, commercialization, or business of science and technology in the state and is obligated to pay state income tax to the state;

(14) "Technology application", the introduction and adaptation of refined management practices in fields such as scheduling, inventory management, marketing, product development, and training in order to improve the quality, productivity and profitability of an existing firm. Technology application shall be considered a component of business modernization;

[(2) "Technology commercialization", the process of moving investment-grade technology from a business, university or laboratory into the marketplace for application;

(3)] (15) "Technology development", strategically focused research directed at developing investment-grade technologies which are important for market competitiveness.

2. The governor may, on behalf of the state and in accordance with chapter 355, RSMo, establish a private not-for-profit corporation named the "Missouri Technology Corporation", to carry out the provisions of sections 348.251 to 348.266. As used in sections [348.251 to 348.266] **348.250 to 348.275** the word "corporation" means the Missouri technology corporation authorized by this section. Before certification by the governor, the corporation shall conduct a public hearing for the purpose of giving all interested parties an opportunity to review and comment [upon] **on** the articles of incorporation, bylaws and [method] **methods** of operation of the corporation. Notice of the hearing shall be given at least fourteen days prior to the hearing.

**348.256. ARTICLES OF INCORPORATION, BYLAWS, METHODS OF OPERATION, CONTENT — MEMBERS, QUALIFICATIONS — AUDITS — EVALUATIONS — TAX EXEMPTIONS — CONFLICTS OF INTEREST. — 1.** The articles of incorporation [and], bylaws, **and methods of operation** of the Missouri technology corporation shall [provide that:] **be consistent with the provisions of sections 348.250 to 348.275.**

[(1)] **2.** The purposes of the corporation are to contribute to the strengthening of the economy of the state through the development of science and [technology] **innovation**, to promote the modernization of Missouri businesses by supporting the transfer of science, technology and quality improvement methods to the workplace[, and]; to enhance the productivity and modernization of Missouri businesses by providing leadership in the establishment of methods of technology application, technology commercialization and technology development; **to make Missouri businesses, institutions, and universities more competitive and increase their likelihood of success; to support and enhance local and regional strategies and initiatives that capitalize on the unique science and innovation assets across the state; to make Missouri a highly desirable state in which to conduct, facilitate, support, fund, and perform science and innovation research, development, and commercialization; to facilitate and effect the creation, attraction, retention, growth, and enhancement of both existing and new science and innovation companies in the state; to make Missouri a national and international leader in economic activity based on science and innovation; to enhance workforce development; to create and retain quality jobs; to advance scientific knowledge; and to improve the quality of life for the citizens of the state of Missouri in both urban and rural communities.**

[(2)] **3.** The board of directors of the corporation [is] **shall be** composed of fifteen persons. The governor shall annually appoint one of its members, who must be from the private sector, as [chairman] **chairperson**. The board shall consist of the following members:

- [(a)] **(1)** The director of the department of economic development, or the director's designee;
- [(b)] **(2)** The president of the University of Missouri system, or the president's designee;
- [(c)] **(3)** A member of the state senate, appointed by the president pro tem of the senate;
- [(d)] **(4)** A member of the house of representatives, appointed by the speaker of the house;
- [(e)] **(5)** Eleven members appointed by the governor, [two of which shall be from the public sector and nine members from the private sector who shall include, but shall not be limited to, individuals who represent technology-based businesses and industrial interests;

**[(f)] with the advice and consent of the senate, who are recognized for outstanding knowledge, leadership, and expertise in one or more of the fields of applicable expertise.**

Each of the directors of the corporation who is appointed by the governor shall serve for a term of four years and until a successor is duly appointed[; except that, of the directors serving on the corporation as of August 28, 1995, three directors shall be designated by the governor to serve a term of four years, three directors shall be designated to serve a term of three years, three directors shall be designated to serve a term of two years, and two directors shall be designated to serve a term of one year. Each director shall continue to serve until a successor is duly appointed by the governor;

(3) The corporation may receive money from any source, may borrow money, may enter into contracts, and may expend money for any activities appropriate to its purpose;

(4) The corporation may appoint staff and do all other things necessary or incidental to carrying out the functions listed in section 348.261;

(5)].

**4.** Any changes in the articles of incorporation or bylaws must be approved by the governor[;].

[(6)] The corporation shall submit an annual report to the governor and to the Missouri general assembly. The report shall be due on the first day of November for each year and shall include detailed information on the structure, operation and financial status of the corporation. The corporation shall conduct an annual public hearing to receive comments from interested parties regarding the report, and notice of the hearing shall be given at least fourteen days prior to the hearing; and



(7)] **5.** At the discretion of the state auditor, the corporation is subject to an [annual] audit by the state auditor and [that] the corporation shall bear the full cost of the audit.

**6.** Each of the directors of the corporation provided for in subdivisions (1) and (2) of subsection 3 of this section shall remain a director until the designating individual specified in such subdivisions designates a replacement by sending a written communication to the governor and the chairperson of the board of the corporation; provided, however, that if the director of economic development or the president of the University of Missouri system designates himself or herself to the corporation board, such person's service as a corporation director shall cease immediately when that person no longer serves as the director of economic development or as the president of the University of Missouri system. Each of the directors of the corporation provided for in subdivisions (3) and (4) of subsection 3 of this section shall remain a director until the appointing member of the general assembly specified in such subdivisions appoints a replacement by sending a written communication to the governor and the chairperson of the corporation board; provided, however, that if the speaker of the house or the president pro tem of the senate appoints himself or herself to the corporation board, such person's service as a corporation director shall cease immediately when that person no longer serves as the speaker of the house or the president pro tem of the senate.

**7.** Each of the eleven members of the board appointed by the governor shall:

(1) Hold office for the term of appointment and until the governor duly appoints his or her successor; provided that if a vacancy is created by the death, permanent disability, resignation, or removal of a director, such vacancy shall become immediately effective;

(2) Be eligible for reappointment, but members of the board shall not be eligible to serve more than two consecutive four-year terms and shall not be reappointed to the board until they have not served on the board for a period of at least four interim years;

(3) Not have a known inherent conflict of interest at the time of appointment; and

(4) Not have served in an elected office or a cabinet position in state government for a period of two years prior to appointment, unless otherwise provided in this section.

**8.** Any member of the board may be removed by affirmative vote of eleven members of the board for malfeasance or misfeasance in office, regularly failing to attend meetings, failure to comply with the corporation's conflicts of interest policy, conviction of a felony, or for any cause that renders the member incapable of or unfit to discharge the duties of a director of the corporation.

**9.** The board shall meet at least four times per year and at such other times as it deems appropriate, or upon call by the president or the chairperson, or upon written request of a majority of the directors of the board. Unless otherwise restricted by Missouri law, the directors may participate in a meeting of the board by means of telephone conference or other electronic communications equipment whereby all persons participating in the meeting can communicate clearly with each other, and participation in a meeting in such manner will constitute presence in person at such meeting.

**10.** A majority of the total voting membership of the board shall constitute a quorum for meetings. The board may act by a majority of those at any meeting where a quorum is present, except upon such issues as the board may determine shall require a vote of more members of the board for approval or as required by law. All resolutions and orders of the board shall be recorded and authenticated by the signature of the secretary or any assistant secretary of the board.

**11.** Members of the board shall serve without compensation. Members of the board attending meetings of the board, or attending committee or advisory meetings thereof, shall be paid mileage and all other applicable expenses, provided that such expenses are reasonable, consistent with policies established from time to time by the board, and not otherwise inconsistent with law.

12. The board may adopt, repeal, and amend such articles of incorporation, bylaws, and methods of operation that are not contrary to law or inconsistent with sections 348.250 to 348.275, as it deems expedient for its own governance and for the governance and management of the corporation and its committees and advisory boards; provided that any changes in the articles of incorporation or bylaws approved by the board must also be approved by the governor.

13. A president shall direct and supervise the administrative affairs and the general management of the corporation. The president shall be a person of national prominence that has expertise and credibility in one or more of the fields of applicable expertise with a demonstrated track record of success in leading a mission-driven organization. The president's salary and other terms and conditions of employment shall be set by the board. The board may negotiate and enter into an employment agreement with the president of the corporation, which may provide for compensation, allowances, benefits, and expenses. The president of the corporation shall not be eligible to serve as a member of the board until two years after the end of his or her employment with the corporation. The president of the corporation shall be bound by, and agree to obey, the corporation's conflicts of interest policy, including annually completing and submitting to the board a disclosure and compliance certificate in accordance with such conflicts of interest policy.

14. The corporation may employ such employees as it may require and upon such terms and conditions as it may establish that are consistent with state and federal law. The corporation may establish personnel, payroll, benefit, and other such systems as authorized by the board, and provide death and disability benefits. Corporation employees, including the president, shall be considered state employees for the purposes of membership in the Missouri state employees' retirement system and the Missouri consolidated health care plan. Compensation paid by the corporation shall constitute pay from a department for purposes of accruing benefits under the Missouri state employees' retirement system. The corporation may also adopt, in accordance with requirements of the federal Internal Revenue Code of 1986, as amended, a defined contribution plan sponsored by the corporation with respect to employees, including the president, employed by the corporation. Nothing in sections 348.250 to 348.275 shall be construed as placing any officer or employee of the corporation or member of the board in the classified or the unclassified service of the state of Missouri under Missouri laws and regulations governing civil service. No employee of the corporation shall be eligible to serve as a member of the board until two years immediately following the end of his or her employment with the corporation. All employees of the corporation shall be bound by, and agree to obey, the corporation's conflicts of interest policy, including annually completing and submitting to the board a disclosure and compliance certificate in accordance with such conflicts of interest policy.

15. No later than the first day of January each year, the corporation shall submit an annual report to the governor and to the Missouri general assembly which the corporation may contract with a third party to prepare and which shall include:

- (1) A complete and detailed description of the operating and financial conditions of the corporation during the prior fiscal year;
- (2) Complete and detailed information about the distributions from the Missouri science and innovation reinvestment fund and from any income of the corporation;
- (3) Information about the growth of science and innovation research and industry in the state;
- (4) Information regarding financial or performance audits performed in such year, including any recommendations with reference to additional legislation or other action that may be necessary to carry out the purposes of the corporation; and

(5) Whether or not the corporation made any distribution during the prior fiscal year to a research project or other project for which a report shall be filed under subsection 4 of section 38(d) of article III of the Constitution of the State of Missouri. If such a distribution was made, the corporation shall disclose in the annual report the amount of the distribution, the recipient of the distribution, and the project description.

16. The corporation shall keep its books and records in accordance with generally accepted accounting procedures. Within four months following the end of each fiscal year, the corporation shall cause a firm of independent certified public accountants of national repute to conduct and deliver to the board an audit of the financial statements of the corporation and an opinion thereon, to be conducted in accordance with generally accepted audit standards, provided, however, that this section shall be inapplicable if the board of directors of the corporation determines that insufficient funds have been appropriated to pay for the costs of compliance with these requirements.

17. Within four months following the end of every odd numbered fiscal year, beginning with fiscal year 2016, the corporation shall cause an independent firm of national repute that has expertise in science and innovation research and industry to conduct and deliver to the board an evaluation of the performance of the corporation for the prior two fiscal years, including detailed recommendations for improving the performance of the corporation, provided, however, that this section shall be inapplicable if the board of directors of the corporation determines that insufficient funds have been appropriated to pay for the costs of compliance with these requirements.

18. The corporation shall provide the state auditor a copy of the financial and performance evaluations prepared under subsections 16 and 17 of this section.

19. The corporation shall have perpetual existence until an act of law expressly dissolves the corporation; provided that no such law shall take effect so long as the corporation has obligations or bonds outstanding unless adequate provision has been made for the payment or retirement of such debts or obligations. Upon any such dissolution of the corporation, all property, funds, and assets thereof shall be vested in the state.

20. Except as provided under section 348.266, the state hereby pledges to, and agrees with, recipients of corporation funding or beneficiaries of corporation programs under sections 348.250 to 348.275 that the state shall not limit or alter the rights vested in the corporation under sections 348.250 to 348.275 to fulfill the terms of any agreements made or obligations incurred by the corporation with or to such third parties, or in any way impair the rights and remedies of such third parties until the obligations of the corporation and the state are fully met and discharged in accordance with sections 348.250 to 348.275.

21. The corporation shall be exempt from:

(1) Any general ad valorem taxes upon any property of the corporation acquired and used for its public purposes;

(2) Any taxes or assessments upon any projects or upon any operations of the corporation or the income therefrom;

(3) Any taxes or assessments upon any project or any property or local obligation acquired or used by the corporation under the provisions of sections 348.250 to 348.275, or upon income therefrom.

Purchases by the corporation to be used for its public purposes shall not be subject to sales or use tax under chapter 144. The exemptions hereby granted shall not extend to persons or entities conducting business on the corporation's property for which payment of state and local taxes would otherwise be required.

22. No funds of the corporation shall be distributed to its employees or members of the board; except that, the corporation may make reasonable payments for expenses incurred on its behalf relating to any of its lawful purposes and the corporation shall be

authorized and empowered to pay reasonable compensation for services rendered to, or for, its benefit relating to any of its lawful purposes, including to pay its employees reasonable compensation.

23. The corporation shall adopt and maintain a conflicts of interest policy to protect the corporation's interests by requiring disclosure by an interested party, appropriate recusal by such person, and appropriate action by the interested party or the board where a conflict of interest may exist or arise between the corporation and a director, officer, employee, or agent of the corporation.

**348.257. EXECUTIVE COMMITTEE ESTABLISHED, MEMBERS, DUTIES — AUDIT COMMITTEE, DUTIES — RESEARCH ALLIANCE, REPORT, CONTENTS — RULES AUTHORITY. —**

1. The board shall establish an executive committee of the corporation, to be composed of the chairperson, the vice-chairperson, and the secretary of the corporation, and two additional directors. The chairperson of the corporation shall serve as the chairperson of the executive committee.

2. The executive committee, in intervals between meetings of the board, may transact any business of the board that has been expressly delegated to the executive committee by the board. If so stipulated by the board, action delegated to the executive committee may be subject to subsequent ratification by the board; provided, however, that until ratified or rejected by the board, any action delegated to, and taken by, the executive committee between meetings of the board will be binding upon the corporation as if ratified, and may be relied upon by third parties.

3. The board shall establish an audit committee of the corporation, to be composed of the chairperson of the corporation and four additional directors. The secretary of the corporation shall serve as the chairperson of the audit committee. The audit committee shall be responsible for oversight of the administration of the conflicts of interest policy, working with the president of the corporation to facilitate communications with the corporation's contract auditors, and such other responsibilities delegated to it by the board.

4. The board shall establish and maintain a research alliance of Missouri to be comprised of the chief research officers, or their designee, of the state's leading research universities and a representative of other leading not-for-profit research institutes headquartered in Missouri. Members of the research alliance of Missouri shall be selected for such terms of membership under such terms and conditions as the board deems necessary and appropriate to advance the purposes of sections 348.250 to 348.275 and as comparable to other similar public sector bodies. The research alliance of Missouri shall elect a chairperson on an annual basis. The research alliance of Missouri shall prepare annual reports at the direction of the corporation that:

(1) Evaluate the specific areas of Missouri's research strengths and weaknesses and outline current research priorities of the state;

(2) Evaluate the ability of each member to realign their research and development resources, policies, and practices to seize emerging opportunities;

(3) Evaluate and summarize the best national and international practices for technology commercialization of university research and describe efforts that each university member has undertaken to implement best practices, including a description of the specific outcomes university members have achieved in technology commercialization; and

(4) Describe research collaborations by and between members and identify collaboration best practices that can or should be instituted in Missouri.

5. The board may establish other committees, both permanent and temporary, as it deems necessary. Such committees may include national strategic, scientific and/or

commercialization advisory boards comprised of individuals of national or international prominence in science and innovation and/or the business and commercialization of science and innovation.

6. The board may establish rules, policies, and procedures for the selection and conduct of committees and advisory boards, and the research alliance of Missouri; provided, however, that the members of such committees and advisory boards agree to be bound by a conflict of interest policy consistent with the highest ethical standards that is suitable for such advisory roles and annually complete and certify to the board a disclosure and compliance certificate in accordance with such conflicts of interest policy.

**348.261. POWERS — LEVERAGING OF NONSTATE RESOURCES — MONEYS, AUTHORITY OVER — NOTICE OF FINANCIAL ASSISTANCE RECIPIENTS TO GENERAL ASSEMBLY. — 1.** The corporation[, after being certified by the governor as provided by section 348.251, may] **shall have all of the powers necessary or convenient to carry out the purposes and provisions of sections 348.250 to 348.275, including the powers as specified therein, and without limitation, the power to:**

(1) Establish a statewide business modernization network to assist Missouri businesses in identifying ways to enhance productivity and market competitiveness;

(2) Identify scientific and technological problems and opportunities related to the economy of Missouri and formulate proposals to overcome those problems or realize those opportunities;

(3) Identify specific areas where scientific research and technological investigation will contribute to the improvement of productivity of Missouri manufacturers and farmers;

(4) Determine specific areas in which financial investment in scientific and technological research and development from private businesses located in Missouri could be enhanced or increased if state resources were made available to assist in financing activities;

(5) Assist in establishing cooperative associations of universities in Missouri and of private enterprises for the purpose of coordinating research and development programs that will, consistent with the primary educational function of the universities, aid in the creation of new jobs in Missouri;

(6) Assist in financing the establishment and continued development of technology-intensive businesses in Missouri;

(7) Advise universities of the research needs of Missouri business and improve the exchange of scientific and technological information for the mutual benefit of universities and private business;

(8) Coordinate programs established by universities to provide Missouri businesses with scientific and technological information;

(9) Establish programs in scientific education which will support the accelerated development of technology-intensive businesses in Missouri;

(10) Provide financial assistance through contracts, grants and loans to programs of scientific and technological research and development;

(11) Determine how public universities can increase income derived from the sale or licensure of products or processes having commercial value that are developed as a result of university sponsored research programs;

(12) Contract with innovation centers, as established in section 348.271, small business development corporations, as established in sections 620.1000 to 620.1007, centers for advanced technology, as established in section 348.272, and other entities or organizations for the provision of technology application, technology commercialization and technology development services. [Such contracting procedures shall not be subject to the provisions of chapter 34; and];

(13) Make direct seed capital or venture capital investments in Missouri business investment funds or businesses [which] **that** demonstrate the promise of growth and job creation. Investments from the corporation may be in the form of debt or equity in the respective businesses;

(14) **Make and execute contracts, guarantees, or any other instruments and agreements necessary or convenient for the exercise of its powers and functions;**

(15) **Contract for and to accept any gifts, grants, and loans of funds, property, or any other aid in any form from the federal government, the state, any state agency, or any other source, or any combination thereof, and to comply with the provisions of the terms and conditions thereof;**

(16) **Procure such insurance, participate in such insurance plans, or provide such self insurance or both as it deems necessary or convenient; provided, however, the purchase of insurance, participation in an insurance plan, or creation of a self-insurance fund by the corporation shall not be deemed as a waiver or relinquishment of any sovereign immunity to which the corporation or its officers, directors, employees, or agents are otherwise entitled;**

(17) **Partner with universities or other research institutions in Missouri to attract and recruit world-class science and innovation talent to Missouri;**

(18) **Expend any and all funds from the Missouri science and innovation reinvestment fund and all other assets and resources of the corporation for the exclusive purpose of fulfilling any purpose, power, or duty of the corporation under sections 348.250 to 348.275, including but not limited to implementing the powers, purposes, and duties of the corporation as enumerated in this section;**

(19) **Participate in joint ventures and collaborate with any taxpayer, governmental body or agency, insurer, university, or college of the state, or any other entity to facilitate any activities or programs consistent with the purpose and intent of sections 348.250 to 348.275; and**

(20) **In carrying out any activities authorized by sections 348.250 to 348.275, the corporation provides appropriate assistance, including the making of investments, grants, and loans, and providing time of employees, to any taxpayer, governmental body, or agency, insurer, university, or college of the state, or any other entity, whether or not any such taxpayer, governmental body or agency, insurer, university, or college of the state, or any other entity, is owned or controlled in whole or in part, directly or indirectly, by the corporation.**

2. **The corporation shall endeavor to maximize the amount of leveraging of nonstate resources, including public and private, cash and in-kind, attained with its investments, grants, loans, or other forms of support. In the case of investments, grants, loans, or other forms of support that emphasize or are specifically intended to impact a particular Missouri county, municipality, or other geographic subdivision of the state, or are otherwise local in nature, the corporation shall give consideration and weight to local matching funds and other matching resources, public and private.**

3. **Except as expressly provided in sections 348.250 to 348.275, all monies earned or received by the corporation, including all funds derived from the commercialization of science and innovation products, methods, services, and technology by the corporation, or any affiliate or subsidiary thereof, or from the Missouri science and innovation reinvestment fund, shall belong exclusively to and be subject to the exclusive control of the corporation.**

4. **The corporation shall have all the powers of a not-for-profit corporation established under Missouri law.**

5. **The corporation shall assume all moneys, property, or other assets remaining with the Missouri seed capital investment board, established in section 620.641. All powers,**

duties, and functions performed by the Missouri seed capital investment board shall be transferred to the Missouri technology corporation.

6. The corporation shall not be subject to the provisions of chapter 34.

7. At least ten days prior to releasing funds to a recipient of financial assistance pursuant to the powers established in this section, the corporation shall submit to the president pro tem of the senate and the speaker of the house of representatives the name of the recipient of such assistance, and post such information on the corporation's website.

**348.262. DEPARTMENT MAY CONTRACT WITH CORPORATIONS.** — In order to assist the corporation in achieving the objectives identified in section 348.261, the department of economic development may contract with the corporation for activities consistent with the corporation's purpose, as specified in [section 348.256] **sections 348.250 to 348.275**. When contracting with the corporation under the provisions of this section, the department of economic development may directly enter into agreements with the corporation and shall not be bound by the provisions of chapter 34, RSMo.

**348.263. OPEN MEETINGS AND SUNSHINE LAW APPLICABILITY — RECORDS, REQUIREMENTS.** — 1. [The Missouri business modernization and technology corporation shall replace the corporation for science and technology. All moneys, property or any other assets remaining with the corporation for science and technology after all obligations are satisfied on August 28, 1993, shall be transferred to the Missouri business modernization and technology corporation. All powers, duties and functions performed by the Missouri corporation of science and technology on August 28, 1993, shall be transferred to the Missouri business modernization and technology corporation.] **Except as otherwise provided in sections 348.250 to 348.275, the corporation shall be subject to requirements applicable to governmental bodies and records contained in sections 610.010 to 610.225.**

2. [The Missouri technology corporation shall replace the Missouri business modernization and technology corporation. All moneys, property or any other assets remaining with the Missouri business modernization and technology corporation after all obligations are satisfied on August 28, 1994, shall be transferred to the Missouri technology corporation. All powers, duties and functions performed by the Missouri business modernization and technology corporation on August 28, 1994, shall be transferred to the Missouri technology corporation.] **In addition to the exceptions available under sections 610.010 to 610.225, the records of the corporation shall not be subject to the provisions of sections 610.010 to 610.225, when, upon determination by the corporation, the disclosure of the information in the records would be harmful to the competitive position of the corporation and such records contain:**

(1) **Proprietary information gathered by, or in the possession of, the corporation from third parties pursuant to a promise of confidentiality;**

(2) **Contract cost estimates prepared for confidential use in awarding contracts for research, development, construction, renovation, commercialization, or the purchase of goods or services;**

(3) **Data, records, or information of a proprietary nature produced or collected by, or for, the corporation, its employees, officers, or members of its board;**

(4) **Third-party financial statements, records, and related data not publicly available that may be shared with the corporation;**

(5) **Consulting or other reports paid for by the corporation to assist the corporation in connection with its strategic planning and goals; or**

(6) **The determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the corporation.**

3. In addition to the exceptions available under sections 610.010 to 610.225, the corporation, including the board, executive committee, audit committee, and research alliance of Missouri, or other such committees or boards that the corporation may authorize from time to time, may discuss, consider, and take action on any of the following in closed session, when upon determination by the corporation, including as appropriate the board, executive committee, audit committee, and research alliance of Missouri, or other such committees or boards that the corporation may authorize from time to time, disclosure of such items would be harmful to the competitive position of the corporation:

- (1) Plans that could affect the value of property, real or personal, owned, or desirable for ownership by the corporation;
- (2) The condition, acquisition, use, or disposition of real or personal property; or
- (3) Contracts for applied research; basic research; science and innovation product development, manufacturing, or commercialization; construction and renovation of science and innovation facilities; or marketing or operational strategies.

**348.264. SCIENCE AND INNOVATION REINVESTMENT FUND ESTABLISHED — SOURCE OF FUNDS — PURPOSE.** — [1.] There is hereby established in the state treasury a special fund to be known as the "Missouri [Technology Investment] **Science and Innovation Reinvestment Fund**", previously established as the **Missouri Technology Investment Fund** in section 348.264, which shall consist of all moneys which may be appropriated to it by the general assembly based on the applicable percentage of the amount by which science and innovation employees' gross wages for the year exceeds the base year gross wages pursuant to section 348.265; other funds appropriated to it by the general assembly, and also any gifts, contributions, grants or bequests received from federal, private or other sources. [Such moneys shall include federal funds which may be received from the National Institute for Science and Technology, the Small Business Administration and the Department of Defense through its Technology Reinvestment Program.] Money in the Missouri [technology investment program] **science and innovation reinvestment fund** shall be used to carry out the provisions of sections [348.251] **348.250** to 348.275. Moneys for business modernization programs, technology application programs, technology commercialization programs and technology development programs established pursuant to the provisions of sections [348.251] **348.250** to 348.275 shall be available from appropriations made by the general assembly from the Missouri [technology investment] **science and innovation reinvestment fund**. Any moneys remaining in the Missouri [technology investment] **science and innovation reinvestment fund** at the end of any fiscal year shall not lapse to the general revenue fund, as provided in section 33.080, but shall remain in the Missouri [technology investment] **science and innovation reinvestment fund**.

[2. Notwithstanding the provisions of sections 173.500 to 173.565, RSMo, the Missouri technology investment fund shall be utilized to fund projects which would previously have been funded through the higher education applied projects fund.]

**348.265. BASE YEAR GROSS WAGES CALCULATION — TRANSFER OF FUNDS, AMOUNT — EXPENDITURE OF FUNDS — STRATEGIC PLAN REQUIRED.** — 1. As soon as practicable after the effective date of this act, the director of the department of economic development, with the assistance of the director of the department of revenue, shall establish the base year gross wages and report the amount of the base year gross wages to the president and board of the corporation, the governor, and the general assembly. Within one hundred eighty days after the end of each fiscal year beginning with the fiscal year ending June 30, 2011, and for each subsequent fiscal year prior to the end of the last funding year, the director of economic development, with the assistance of the director of the department of revenue, shall determine and report to the president and board of the corporation,



governor, and general assembly the amount by which aggregate science and innovation employees' gross wages for the fiscal year exceeds the base year gross wages. The director of economic development and the director of the department of revenue may consider any verifiable evidence, including but not limited to the NAICS codes assigned or recorded by the United States Department of Labor for companies with employees in the state, when determining which organizations should be classified as science and innovation companies.

2. Notwithstanding section 23.250 to the contrary, for each of the twenty-five funding years, beginning July 1, 2012, subject to appropriation, the director of revenue shall transfer to the Missouri science and innovation reinvestment fund an amount not to exceed an amount equal to the product of the applicable percentage multiplied by an amount equal to the increase in aggregate science and innovation employees' gross wages for the prior fiscal year, over the base year gross wages. The director of revenue may make estimated payments to the Missouri science and innovation reinvestment fund more frequently based on estimates provided by the director of revenue and reconciled annually.

3. Local political subdivisions may contribute to the Missouri science and innovation reinvestment fund through a grant, contract, or loan by dedicating a portion of any sales tax or property tax increase resulting from increases in science and innovation company economic activity occurring after the effective date of this act, or other such taxes or fees as such local political subdivisions may establish.

4. Funding generated by the provisions of this section shall be expended by the corporation to further its purposes as specified in section 348.256.

5. Upon enactment of this section, the corporation shall prepare a strategic plan for the use of the funding to be generated by the provisions of this section, and may consult with science and innovation partners, including, but not limited to the research alliance of Missouri, as established in section 348.257; the life sciences research board established in section 196.1103; and the innovation centers or centers for advanced technology, as established in section 348.272. The corporation shall make a draft strategic plan available for public comment prior to publication of the final strategic plan.

**348.269. NO LIMITATION ON ENUMERATED POWERS — PRIOR AUTHORIZATION OF GENERAL ASSEMBLY FOR SALE OF ASSETS — INAPPLICABILITY OF SUNSET ACT — SEVERABILITY CLAUSE. —** 1. Nothing contained in sections 348.250 to 348.275 shall be construed as a restriction or limitation upon any powers that the corporation might otherwise have under chapter 355, and the provisions of sections 348.250 to 348.275 are cumulative to such powers.

2. Nothing in sections 348.250 to 348.275 shall be construed as allowing the board to sell the corporation or substantially all of the assets of the corporation, or to merge the corporation with another institution, without prior authorization by the general assembly.

3. Notwithstanding the provisions of section 23.253 to the contrary, the provisions of sections 348.250 to 348.275 shall not sunset.

4. The provisions of sections 348.250 to 348.275 shall not terminate before the satisfaction of all outstanding obligations, notes, and bonds provided for under sections 348.250 to 348.275.

5. If any provision of this act or the application thereof is held invalid, the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable. Insofar as the provisions of sections 348.250 to 348.275 are inconsistent with the provisions of any other law, general, specific or local, the provisions of sections 348.250 to 348.275 shall be controlling.

**348.271. INNOVATION CENTERS TO BE ESTABLISHED TO DEVELOP NEW SCIENCE AND INNOVATION-BASED BUSINESS DUTIES, REPORTS — MATCH REQUIREMENTS.** — 1. In order to foster the growth of Missouri's economy and to stimulate the creation of new jobs in [technology-based] **science and innovation-based** industry for the state's work force, the Missouri technology corporation, in accordance with the provisions of this section and within the limits of appropriations therefor is authorized to contract with Missouri not-for-profit corporations for the operation of innovation centers within the state. The primary emphasis of some, if not of all innovation centers, shall be in the areas of [technology commercialization, finance and business modernization. Innovation centers operated under the provisions of this section shall provide assistance to individuals and business organizations during the early stages of the development of new technology-based] **science and innovation-based** business ventures. Such assistance may include the provision of facilities, equipment, administrative and managerial support, planning assistance, and such other services and programs that enhance the development of such ventures and such assistance may be provided for fees or other consideration.

2. The innovation centers operated under this section shall counsel and assist the new [technology-based] **science and innovation-based** business ventures in finding a suitable site in the state of Missouri for location of the business upon its graduation from the innovation program. Each innovation center shall annually submit a report of its activities to the department of economic development and the Missouri technology corporation which shall include, but not be limited to, the success rate of the businesses graduating from the center, the progress and locations of businesses which have graduated from the center, the types of businesses which have graduated from the center, and the number of jobs created by the businesses involved in the center.

**3. Any contract signed between the corporation and any not-for-profit organization to operate an innovation center in accordance with the provisions of this section shall require that the not-for-profit organization must provide at least a one-hundred-percent match for the funding received from the corporation pursuant to appropriation therefor.**

**348.300. DEFINITIONS.** — As used in sections 348.300 to 348.318, the following terms mean:

(1) "Commercial activity located in Missouri", any research, development, prototype fabrication, and subsequent precommercialization activity, or any activity related thereto, conducted in Missouri for the purpose of producing a service or a product or process for manufacture, assembly or sale or developing a service based on such a product or process by any person, corporation, partnership, joint venture, unincorporated association, trust or other organization doing business in Missouri. Subsequent to January 1, 1999, a commercial activity located in Missouri shall mean only such activity that is located within a distressed community, as defined in section 135.530;

(2) "Follow-up capital", capital provided to a commercial activity located in Missouri in which a qualified fund has previously invested seed capital or start-up capital and which does not exceed ten times the amount of such seed and start-up capital;

(3) "Person", any individual, corporation, partnership, or other entity, including any charitable corporation which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143;

(4) "Qualified contribution", cash contribution to a qualified fund;

(5) "Qualified economic development organization", any corporation organized under the provisions of chapter 355 which has as of January 1, 1991, obtained a contract with the department of economic development to operate an innovation center to promote, assist and coordinate the research and development of new services, products or processes in the state of

Missouri; and the Missouri technology corporation organized pursuant to the provisions of sections [348.253 to 348.266] **348.250 to 348.275**;

(6) "Qualified fund", any corporation, partnership, joint venture, unincorporated association, trust or other organization which is established under the laws of Missouri after December 31, 1985, which meets all of the following requirements established by this subdivision. The fund shall have as its sole purpose and business the making of investments, of which at least ninety percent of the dollars invested shall be qualified investments. The fund shall enter into a contract with one or more qualified economic development organizations which shall entitle the qualified economic development organizations to receive not less than ten percent of all distributions of equity and dividends or other earnings of the fund. Such contracts shall require the qualified fund to transfer to the Missouri technology corporation organized pursuant to the provisions of sections [348.253 to 348.266] **348.250 to 348.275** this interest and make corresponding distributions thereto in the event the qualified economic development organization holding such interest is dissolved or ceases to do business for a period of one year or more;

(7) "Qualified investment", any investment of seed capital, start-up capital, or follow-up capital in any commercial activity located in Missouri;

(8) "Seed capital", capital provided to a commercial activity located in Missouri for research, development and precommercialization activities to prove a concept for a new product or process or service, and for activities related thereto;

(9) "Start-up capital", capital provided to a commercial activity located in Missouri for use in preproduction product development or service development or initial marketing thereof, and for activities related thereto;

(10) "State tax liability", any state tax liability incurred by a taxpayer under the provisions of chapters 143, 147 and 148, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265 and related provisions;

(11) "Uninvested capital", the amount of any distribution, other than of earnings, by a qualified fund made within five years of the issuance of a certificate of tax credit as provided by sections 348.300 to 348.318; or the portion of all qualified contributions to a qualified fund which are not invested as qualified investments within five years of the issuance of a certificate of tax credit as provided by sections 348.300 to 348.318 to the extent that the amount not so invested exceeds ten percent of all such qualified contributions.

**[348.253. CONTRACTS WITH NOT-FOR-PROFIT ORGANIZATIONS, OBJECTIVES. — 1.** The Missouri technology corporation may contract with not-for-profit organizations to carry out the provisions of sections 348.251 to 348.275. By entering into such contracts, the corporation shall attempt to achieve the following objectives:

(1) The establishment of a research alliance which shall advance technology development, as defined in subdivision (3) of section 348.251. The corporation, in this capacity, shall have the authority to contract directly with centers for advanced technology, as established by section 348.272, and other not-for-profit entities. In proceeding with this objective, the corporation and centers for advanced technology shall utilize the results of targeted industry studies commissioned by the department of economic development;

(2) Technology commercialization, as defined in subdivision (2) of section 348.251;

(3) The establishment of a finance corporation to assist in the implementation of section 348.261; and

(4) The enhancement of technology application, as defined in subdivision (1) of section 348.251.

2. Any contract signed between the corporation and any not-for-profit organization, including innovation centers as defined in section 348.271, shall require that the not-for-profit organization must provide at least one-hundred-percent match for any funding received from the corporation through the technology investment fund, as established in section 348.264.

**SECTION B. CONTINGENT EFFECTIVE DATE.** — Section A of this act relating to science and innovation shall not become effective except upon the passage and approval by signature of the governor only of senate bill no. 8 relating to taxation and enacted during the first extraordinary session of first regular session of the ninety- sixth general assembly.

Approved October 21, 2011

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**ABORTION**

- SB 65 Modifies provisions relating to abortion with respect to viability  
HB 213 Modifies provisions relating to abortion with respect to viability

**ADMINISTRATION, OFFICE OF**

- HB 137 Modifies provisions relating to the transfer of property  
HB 190 Allows the Office of Administration to make monies available to the Department of Natural Resources to be used for cash transactions in the sale of items to the public  
HB 344 Creates the Farm-to-Table Advisory Board and modifies a provision pertaining to certain agricultural commodity fees  
HB 464 Eliminates, combines, and revises certain state boards, commissions, committees, and councils

**ADMINISTRATIVE LAW**

- HB 89 Modifies provisions relating to natural resources

**ADMINISTRATIVE RULES**

- SCR 1 Disapproves a final order of rule making by the Public Service Commission regarding Electric Utility Renewable Energy requirements

**AGRICULTURE AND ANIMALS**

- SB 55 Classifies sawmills and planing mills as agricultural and horticultural property for tax purposes  
SB 113 Modifies the Animal Care Facilities Act and the Puppy Mill Cruelty Prevention Act  
SB 161 Modifies provisions relating to agriculture  
SB 187 Modifies the laws regarding nuisances and junkyards  
SB 356 Modifies provisions pertaining to agriculture  
HB 209 Modifies the laws regarding nuisances and junkyards (VETOED)  
HB 344 Creates the Farm-to-Table Advisory Board and modifies a provision pertaining to certain agricultural commodity fees  
HB 458 Modifies provisions pertaining to agriculture  
Prop B Puppy Mill Cruelty Act

**AGRICULTURE DEPARTMENT**

- SB 113 Modifies the Animal Care Facilities Act and the Puppy Mill Cruelty Prevention Act  
SB 135 Modifies provisions pertaining to environmental protection  
SB 161 Modifies provisions relating to agriculture  
SB 356 Modifies provisions pertaining to agriculture  
HB 6 Appropriates money for the expenses, grants, refunds, and distributions of the Department of Agriculture, Department of Natural Resources, and Department of Conservation  
HB 344 Creates the Farm-to-Table Advisory Board and modifies a provision pertaining to certain agricultural commodity fees  
HB 458 Modifies provisions pertaining to agriculture

Prop B Puppy Mill Cruelty Act

### **ALCOHOL**

- HB 101 Modifies provisions relating to liquor control  
HB 199 Modifies community service requirements for prior and persistent violators of intoxication-related traffic

### **AMBULANCES AND AMBULANCE DISTRICTS**

- SB 226 Modifies provisions relating to emergency services

### **APPROPRIATIONS**

- HB 1 Appropriates money to the Board of Fund Commissioners  
HB 2 Appropriates money for the expenses, grants, refunds, and distributions of the State Board of Education and Department of Elementary and Secondary Education  
HB 3 Appropriates money for the expenses, grants, refunds, and distributions of the Department of Higher Education  
HB 4 Appropriates money for the expenses, grants, refunds, and distributions of the Department of Revenue and Department of Transportation  
HB 5 Appropriates money for the expenses, grants, refunds, and distributions of the Office of Administration, Department of Transportation, and Department of Public Safety  
HB 6 Appropriates money for the expenses, grants, refunds, and distributions of the Department of Agriculture, Department of Natural Resources, and Department of Conservation  
HB 7 Appropriates money for the expenses and distributions of the departments of Economic Development; Insurance, Financial Institutions & Professional Registration; and Labor & Industrial Relations  
HB 8 Appropriates money for the expenses, grants, refunds, and distributions of the Department of Public Safety  
HB 9 Appropriates money for the expenses, grants, refunds, and distributions of the Department of Corrections  
HB 10 Appropriates money for the expenses, grants, refunds, and distributions of the Department of Mental Health, Board of Public Buildings, and Department of Health and Senior Services  
HB 11 Appropriates money for the expenses, grants, and distributions of the Department of Social Services  
HB 12 Appropriates money for the expenses, grants, refunds, and distributions of statewide elected officials, the Judiciary, Office of the State Public Defender, and General Assembly  
HB 13 Appropriates money for real property leases and related services  
HB 14 Appropriates money for supplemental purposes  
HB 15 Appropriates money for supplemental purposes for the Department of Elementary and Secondary Education  
HB 17 Appropriates money for capital improvement and other purposes as provided in Article IV, Section 28  
HB 18 Reappropriates federal stimulus money  
HB 21 Appropriates money for capital improvement projects involving maintenance, repair, replacement, and improvement of state buildings and facilities
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- HB 22 Appropriates money for capital improvement projects, for grants, land acquisition, planning, expenses, and to transfer money among certain funds  
HB 470 Modifies provisions of law regarding the nonresident entertainer and athlete tax

### **ARCHITECTS**

- SB 220 Modifies liens for certain design professionals and the statute of limitations for actions against land surveyors (VETOED)

### **ARTS AND HUMANITIES**

- HB 470 Modifies provisions of law regarding the nonresident entertainer and athlete tax

### **ATTORNEY GENERAL, STATE**

- SB 101 Creates requirements for contractors who perform home exterior and roof work  
SB 320 Modifies provisions relating to domestic violence  
HB 111 Modifies and enacts various provisions of law relating to the judiciary  
HB 214 Modifies the human trafficking provisions

### **ATTORNEYS**

- SB 165 Extends the sunset on the Basic Civil Legal Services Fund  
SB 237 Requires that the September 1996 Supreme Court standards for representation by guardians ad litem be updated  
HB 256 Extends expiration date on Basic Civil Legal Services Fund to Dec. 2018 (VETOED)

### **BANKS AND FINANCIAL INSTITUTIONS**

- SB 83 Allows for the sale of deficiency waiver addendums and other similar products with respect to certain loan transactions  
HB 83 Allows owners of automated teller machines to charge access fees to those with bank accounts in foreign countries  
HB 109 Removes a provision restricting the investment in certain linked deposits  
HB 265 Modifies the law regarding the licensure of certain professions  
HB 464 Eliminates, combines, and revises certain state boards, commissions, committees, and councils  
HB 661 Modifies the law regarding debt adjusters

### **BOARDS, COMMISSIONS, COMMITTEES, COUNCILS**

- SB 81 Modifies provisions relating to education  
SB 163 Modifies the composition of the Coordinating Board for Higher Education, Board of Curators of the University of Missouri and the governing board of Missouri State University (VETOED)  
SB 284 Modifies the disciplinary authority of the Board of Pharmacy, defines the term legend drug for the purpose of certain pharmacy statutes, and grants exemption from sales tax for certain medical equipment and drugs  
SB 325 Modifies various laws relating to professional registration
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- HB 70 Changes the compensation and mileage allowance for certain members of a county highway commission
- HB 136 Allows certain military spouses to qualify for unemployment compensation and requires state agencies or boards to give temporary licenses to certain military spouses
- HB 137 Modifies provisions relating to the transfer of property
- HB 174 Modifies the composition of the Coordinating Board for Higher Education, Board of Curators of the University of Missouri and the governing board of Missouri State University
- HB 217 Allows election authorities to use electronic voter identification systems and electronic signature pads to verify certain information
- HB 223 Establishes the Advanced Placement Incentive Grant and the Nursing Education Incentive Program
- HB 265 Modifies the law regarding the licensure of certain professions
- HB 300 Establishes the "Interscholastic Youth Sports Brain Injury Prevention Act"
- HB 344 Creates the Farm-to-Table Advisory Board and modifies a provision pertaining to certain agricultural commodity fees
- HB 412 Modifies provisions relating to pharmacy
- HB 458 Modifies provisions pertaining to agriculture
- HB 464 Eliminates, combines, and revises certain state boards, commissions, committees, and councils
- HB 591 Authorizes the Dental Board to issue a limited teaching license

#### **BOATS AND WATERCRAFT**

- HB 550 Revises the laws regarding liens and encumbrances on motor vehicles, trailers, watercraft, and manufactured homes

#### **BONDS — SURETY**

- SB 356 Modifies provisions pertaining to agriculture

#### **BUSINESS AND COMMERCE**

- SB 113 Modifies the Animal Care Facilities Act and the Puppy Mill Cruelty Prevention Act
- SB 135 Modifies provisions pertaining to environmental protection
- SB 161 Modifies provisions relating to agriculture
- SB 356 Modifies provisions pertaining to agriculture
- SB 366 Creates Missouri cooperative associations and modifies the law relating to the conversion of certain business organizations
- HB 45 Modifies provisions of the Big Government Get Off My Back Act and creates an income tax deduction for small business job creation
- HB 89 Modifies provisions relating to natural resources
- HB 578 Allows the state and political subdivisions to give scrap tires to businesses when the cost is less than other methods of disposal
- HB 661 Modifies the law regarding debt adjusters

#### **CHARITIES**

- HB 250 Exempts certain charitable organizations from well construction requirements
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**CHILDREN AND MINORS**

- SB 54 Creates the Amy Hestir Student Protection Act and establishes the Task Force on the Prevention of Sexual Abuse of Children
- SB 351 Modifies provisions relating to adoption records
- HB 260 Updates the Uniform Interstate Family Support Act
- HB 431 Modifies provisions relating to fosters care and adoption promotion
- HB 555 Modifies various provisions relating to individuals with disabilities
- HB 604 Modifies provisions relating to parental rights
- HB 749 Designates the month of April as "Child Abuse Prevention Month" and recognizes the "blue ribbon" as the official state symbol for child abuse prevention

**CITIES, TOWNS AND VILLAGES**

- SB 117 Modifies provisions of law regarding the collection of taxes
- HB 38 Requires jail administrators to notify MULES when certain felons escape and modifies the amount of fines that are satisfied for one day of labor by a prisoner
- HB 68 Prohibits political subdivisions from assessing penalties on owners of pay phones for calls made to 911 from the pay phone
- HB 161 Modifies provisions of law regarding certain taxes imposed by local governments
- HB 340 Modifies provisions relating to county jails and courthouses
- HB 470 Modifies provisions of law regarding the nonresident entertainer and athlete tax
- HB 737 Modifies provisions of law regarding property taxes
- Prop A Eliminates certain city earnings taxes

**CIVIL PROCEDURE**

- SB 68 Authorizes the issuance of subpoenas for the production of records by the General Assembly
- SB 187 Modifies the laws regarding nuisances and junkyards
- SB 213 Modifies what information is required in a petition for guardianship for a minor or an incapacitated person, adopts the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act and modifies procedures for ordering autopsies
- HB 111 Modifies and enacts various provisions of law relating to the judiciary
- HB 209 Modifies the laws regarding nuisances and junkyards (VETOED)

**CONSERVATION DEPARTMENT**

- HB 6 Appropriates money for the expenses, grants, refunds, and distributions of the Department of Agriculture, Department of Natural Resources, and Department of Conservation

**CONSTITUTIONAL AMENDMENTS**

- HJR 2 Proposes a constitutional amendment reaffirming a citizen's right to prayer

**CONSTRUCTION AND BUILDING CODES**

- SB 108 Extends the expiration date concerning the installation of fire sprinklers in certain home dwellings to December 31, 2019 and modifies adoption by a political subdivision of certain residence codes

### **CONSUMER PROTECTION**

- SB 101 Creates requirements for contractors who perform home exterior and roof work  
HB 250 Exempts certain charitable organizations from well construction requirements  
HB 338 Allows telecommunications companies to exempt themselves from filing tariffs and being subject to certain state regulations when similar federal regulations exist

### **CONTRACTS AND CONTRACTORS**

- SB 101 Creates requirements for contractors who perform home exterior and roof work  
HB 265 Modifies the law regarding the licensure of certain professions

### **COOPERATIVES**

- SB 366 Creates Missouri cooperative associations and modifies the law relating to the conversion of certain business organizations

### **CORPORATIONS**

- SB 19 Phases-out the corporate franchise tax over a five year period  
HB 111 Modifies and enacts various provisions of law relating to the judiciary

### **CORRECTIONS DEPARTMENT**

- SB 250 Requires sexual assault offenders to complete certain programs prior to being eligible for parole and prohibits them from living near child care facilities  
HB 9 Appropriates money for the expenses, grants, refunds, and distributions of the Department of Corrections  
HB 344 Creates the Farm-to-Table Advisory Board and modifies a provision pertaining to certain agricultural commodity fees

### **COUNTIES**

- HB 68 Prohibits political subdivisions from assessing penalties on owners of pay phones for calls made to 911 from the pay phone  
HB 142 Modifies provisions relating to political subdivisions  
HB 161 Modifies provisions of law regarding certain taxes imposed by local governments  
HB 186 Modifies provisions relating to elected or appointed county commission clerks and county recorders  
HB 209 Modifies the laws regarding nuisances and junkyards (VETOED)  
HB 340 Modifies provisions relating to county jails and courthouses  
HB 470 Modifies provisions of law regarding the nonresident entertainer and athlete tax  
HB 737 Modifies provisions of law regarding property taxes

### **COUNTY GOVERNMENT**

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- HB 70 Changes the compensation and mileage allowance for certain members of a county highway commission
- HB 184 Allows road district commissioners to receive compensation for their services of up to \$100 per month and specifies that risk coverages procured by certain political subdivision associations shall not require the solicitation of competitive bids (VETOED)
- HB 186 Modifies provisions relating to elected or appointed county commission clerks and county recorders
- HB 458 Modifies provisions pertaining to agriculture
- HB 675 Requires county coroners to complete training requirements within six months of appointment or election

### **COUNTY OFFICIALS**

- SB 57 Requires courts to transfer certain cases upon the request of the public administrator and specifies that certain political subdivision associations are not required to solicit competitive bids when procuring risk coverages
- HB 142 Modifies provisions relating to political subdivisions
- HB 186 Modifies provisions relating to elected or appointed county commission clerks and county recorders
- HB 675 Requires county coroners to complete training requirements within six months of appointment or election
- SJR 5 Constitutional Amendment 1, requires all assessors, except the Jackson County Assessor, to be elected

### **COURTS**

- SB 57 Requires courts to transfer certain cases upon the request of the public administrator and specifies that certain political subdivision associations are not required to solicit competitive bids when procuring risk coverages
- SB 187 Modifies the laws regarding nuisances and junkyards
- SB 213 Modifies what information is required in a petition for guardianship for a minor or an incapacitated person, adopts the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act and modifies procedures for ordering autopsies
- SB 237 Requires that the September 1996 Supreme Court standards for representation by guardians ad litem be updated
- SB 351 Modifies provisions relating to adoption records
- HB 111 Modifies and enacts various provisions of law relating to the judiciary
- HB 199 Modifies community service requirements for prior and persistent violators of intoxication-related traffic
- HB 209 Modifies the laws regarding nuisances and junkyards (VETOED)

### **COURTS, JUVENILE**

- SB 351 Modifies provisions relating to adoption records
- HB 555 Modifies various provisions relating to individuals with disabilities

### **CREDIT AND BANKRUPTCY**

- SB 59 Modifies provisions regarding judicial procedures
  - HB 109 Removes a provision restricting the investment in certain linked deposits
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**CREDIT UNIONS**

- SB 306 Modifies laws relating to the administration of credit unions  
HB 83 Allows owners of automated teller machines to charge access fees to those with bank accounts in foreign countries  
HB 465 Modifies laws relating to the administration of credit unions (VETOED)  
HB 661 Modifies the law regarding debt adjusters

**CRIMES AND PUNISHMENT**

- SB 113 Modifies the Animal Care Facilities Act and the Puppy Mill Cruelty Prevention Act  
SB 250 Requires sexual assault offenders to complete certain programs prior to being eligible for parole and prohibits them from living near child care facilities  
SB 320 Modifies provisions relating to domestic violence  
HB 38 Requires jail administrators to notify MULES when certain felons escape and modifies the amount of fines that are satisfied for one day of labor by a prisoner  
HB 111 Modifies and enacts various provisions of law relating to the judiciary  
HB 199 Modifies community service requirements for prior and persistent violators of intoxication-related traffic  
HB 209 Modifies the laws regarding nuisances and junkyards (VETOED)  
HB 214 Modifies the human trafficking provisions  
HB 294 Modifies the law regarding weapons  
HB 641 Modifies provisions relating to controlled substances

**DAIRIES AND DAIRY PRODUCTS**

- HB 344 Creates the Farm-to-Table Advisory Board and modifies a provision pertaining to certain agricultural commodity fees

**DENTISTS**

- SB 325 Modifies various laws relating to professional registration  
HB 591 Authorizes the Dental Board to issue a limited teaching license

**DISABILITIES**

- SB 70 Modifies provisions relating to the Missouri Family Trust  
HB 464 Eliminates, combines, and revises certain state boards, commissions, committees, and councils  
HB 555 Modifies various provisions relating to individuals with disabilities  
HB 604 Modifies provisions relating to parental rights  
HB 631 Creates an income tax check-off for contributions to certain funds  
HB 648 Modifies provisions relating to individuals with disabilities

**DOMESTIC RELATIONS**

- HB 111 Modifies and enacts various provisions of law relating to the judiciary  
HB 260 Updates the Uniform Interstate Family Support Act

**DRUGS AND CONTROLLED SUBSTANCES**

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- SB 284 Modifies the disciplinary authority of the Board of Pharmacy, defines the term legend drug for the purpose of certain pharmacy statutes, and grants exemption from sales tax for certain medical equipment and drugs
- SB 325 Modifies various laws relating to professional registration
- HB 73 Enacts provisions regarding drug testing for TANF applicants and recipients and requires the benefit card to include a photo of the recipient or payee
- HB 412 Modifies provisions relating to pharmacy
- HB 641 Modifies provisions relating to controlled substances

### **EASEMENTS AND CONVEYANCES**

- SB 96 Conveys certain property owned by the state
- SB 97 Conveys certain property owned by the state
- HB 137 Modifies provisions relating to the transfer of property

### **ECONOMIC DEVELOPMENT DEPARTMENT**

- HB 7 Appropriates money for the expenses and distributions of the departments of Economic Development; Insurance, Financial Institutions & Professional Registration; and Labor & Industrial Relations
- HB 344 Creates the Farm-to-Table Advisory Board and modifies a provision pertaining to certain agricultural commodity fees
- HB 464 Eliminates, combines, and revises certain state boards, commissions, committees, and councils
- SB 7 Establishes Missouri Science and Innovation Reinvestment Act (First Extraordinary)

### **EDUCATION, ELEMENTARY AND SECONDARY**

- SB 1 Addresses communications between schools and students (First Extraordinary)
- SB 54 Creates the Amy Hestir Student Protection Act and establishes the Task Force on the Prevention of Sexual Abuse of Children
- SB 81 Modifies provisions relating to education
- HJR 2 Proposes a constitutional amendment reaffirming a citizen's right to prayer
- HB 2 Appropriates money for the expenses, grants, refunds, and distributions of the State Board of Education and Department of Elementary and Secondary Education
- HB 300 Establishes the "Interscholastic Youth Sports Brain Injury Prevention Act"
- HB 506 Modifies provisions of law requiring certain political subdivisions to revise property tax rates
- HB 795 Designates the second Friday in March of each year as "Missouri School Read-In Day"

### **EDUCATION, HIGHER**

- SB 163 Modifies the composition of the Coordinating Board for Higher Education, Board of Curators of the University of Missouri and the governing board of Missouri State University (VETOED)
- HJR 2 Proposes a constitutional amendment reaffirming a citizen's right to prayer
- HB 3 Appropriates money for the expenses, grants, refunds, and distributions of the Department of Higher Education
- HB 137 Modifies provisions relating to the transfer of property

- HB 174 Modifies the composition of the Coordinating Board for Higher Education, Board of Curators of the University of Missouri and the governing board of Missouri State University
- HB 223 Establishes the Advanced Placement Incentive Grant and the Nursing Education Incentive Program
- HB 344 Creates the Farm-to-Table Advisory Board and modifies a provision pertaining to certain agricultural commodity fees
- HB 464 Eliminates, combines, and revises certain state boards, commissions, committees, and councils
- HB 470 Modifies provisions of law regarding the nonresident entertainer and athlete tax

### **ELDERLY**

- SB 213 Modifies what information is required in a petition for guardianship for a minor or an incapacitated person, adopts the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act and modifies procedures for ordering autopsies

### **ELECTIONS**

- SJR 2 Allows enabling legislation for advance voting and photographic identification for voting
- SB 3 Establishes photo identification requirements for voting and requirements for advance voting (VETOED)
- SB 226 Modifies provisions relating to emergency services
- SB 282 Modifies numerous laws relating to elections (VETOED)
- HB 186 Modifies provisions relating to elected or appointed county commission clerks and county recorders
- HB 193 Establishes new congressional districts (VETOED -- OVERRIDDEN)
- HB 217 Allows election authorities to use electronic voter identification systems and electronic signature pads to verify certain information

### **ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT**

- SB 54 Creates the Amy Hestir Student Protection Act and establishes the Task Force on the Prevention of Sexual Abuse of Children
- SB 81 Modifies provisions relating to education
- SB 117 Modifies provisions of law regarding the collection of taxes
- HB 344 Creates the Farm-to-Table Advisory Board and modifies a provision pertaining to certain agricultural commodity fees

### **EMBLEMS**

- HB 749 Designates the month of April as "Child Abuse Prevention Month" and recognizes the "blue ribbon" as the official state symbol for child abuse prevention

### **EMERGENCIES**

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- HB 68 Prohibits political subdivisions from assessing penalties on owners of pay phones for calls made to 911 from the pay phone

### **EMPLOYEES — EMPLOYERS**

- SB 36 Allows employees of certain employers to take a leave of absence for civil air patrol emergency service duty or counter narcotics missions  
SB 188 Modifies the law relating to the Missouri Human Rights Act and employment discrimination (VETOED)  
SB 325 Modifies various laws relating to professional registration  
HB 265 Modifies the law regarding the licensure of certain professions

### **EMPLOYMENT SECURITY**

- HB 136 Allows certain military spouses to qualify for unemployment compensation and requires state agencies or boards to give temporary licenses to certain military spouses  
HB 163 Modifies the law relating to unemployment

### **ENERGY**

- SCR 1 Disapproves a final order of rule making by the Public Service Commission regarding Electric Utility Renewable Energy requirements  
HB 737 Modifies provisions of law regarding property taxes

### **ENGINEERS**

- SB 220 Modifies liens for certain design professionals and the statute of limitations for actions against land surveyors (VETOED)

### **ENTERTAINMENT, SPORTS AND AMUSEMENTS**

- HB 300 Establishes the "Interscholastic Youth Sports Brain Injury Prevention Act"  
HB 470 Modifies provisions of law regarding the nonresident entertainer and athlete tax

### **ENVIRONMENTAL PROTECTION**

- SB 135 Modifies provisions pertaining to environmental protection  
HB 89 Modifies provisions relating to natural resources  
HB 578 Allows the state and political subdivisions to give scrap tires to businesses when the cost is less than other methods of disposal

### **ESTATES, WILLS AND TRUSTS**

- SB 59 Modifies provisions regarding judicial procedures  
SB 70 Modifies provisions relating to the Missouri Family Trust

### **FAMILY LAW**

- SB 351 Modifies provisions relating to adoption records
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- HB 111 Modifies and enacts various provisions of law relating to the judiciary  
HB 260 Updates the Uniform Interstate Family Support Act  
HB 555 Modifies various provisions relating to individuals with disabilities  
HB 604 Modifies provisions relating to parental rights

### **FEDERAL — STATE RELATIONS**

- HB 423 Enacts the interstate Health Care Compact in which member states pledge to improve health care policy by returning the authority to regulate health care to the states

### **FEES**

- SB 135 Modifies provisions pertaining to environmental protection  
HB 83 Allows owners of automated teller machines to charge access fees to those with bank accounts in foreign countries  
HB 89 Modifies provisions relating to natural resources

### **FIRE PROTECTION**

- SB 108 Extends the expiration date concerning the installation of fire sprinklers in certain home dwellings to December 31, 2019 and modifies adoption by a political subdivision of certain residence codes  
SB 238 Creates a presumption that certain infectious diseases are duty-related for the purposes of firefighters' disability and death benefits  
HB 282 Modifies provisions regarding public employee retirement  
HB 464 Eliminates, combines, and revises certain state boards, commissions, committees, and councils  
HB 664 Changes the laws regarding the Firemen's Retirement System of St. Louis and creates a presumption that certain infectious diseases are duty-related for the purposes of firefighters' disability and death benefits

### **FIREARMS AND FIREWORKS**

- HB 294 Modifies the law regarding weapons

### **FUNERALS AND FUNERAL DIRECTORS**

- SB 325 Modifies various laws relating to professional registration  
HB 265 Modifies the law regarding the licensure of certain professions

### **GENERAL ASSEMBLY**

- SCR 1 Disapproves a final order of rule making by the Public Service Commission regarding Electric Utility Renewable Energy requirements  
SCR 11 Asks the Governor to recognize every third week in June as Diabetic Peripheral Neuropathy Week  
SB 68 Authorizes the issuance of subpoenas for the production of records by the General Assembly  
SB 173 Modifies provisions of law relating to transportation and infrastructure  
HB 137 Modifies provisions relating to the transfer of property
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- HB 315 Combines and modifies the provisions of the Revised Statutes of Missouri that have been enacted in more than one bill so that there is only one version of a statute exists

### **GOVERNOR & LT. GOVERNOR**

- SCR 11 Asks the Governor to recognize every third week in June as Diabetic Peripheral Neuropathy Week
- SB 163 Modifies the composition of the Coordinating Board for Higher Education, Board of Curators of the University of Missouri and the governing board of Missouri State University (VETOED)
- SB 180 Designates certain state recognized days, weeks, and months
- HB 137 Modifies provisions relating to the transfer of property
- HB 174 Modifies the composition of the Coordinating Board for Higher Education, Board of Curators of the University of Missouri and the governing board of Missouri State University

### **GUARDIANS**

- SB 57 Requires courts to transfer certain cases upon the request of the public administrator and specifies that certain political subdivision associations are not required to solicit competitive bids when procuring risk coverages
- SB 213 Modifies what information is required in a petition for guardianship for a minor or an incapacitated person, adopts the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act and modifies procedures for ordering autopsies
- SB 237 Requires that the September 1996 Supreme Court standards for representation by guardians ad litem be updated
- HB 111 Modifies and enacts various provisions of law relating to the judiciary
- HB 142 Modifies provisions relating to political subdivisions

### **HEALTH CARE**

- SCR 11 Asks the Governor to recognize every third week in June as Diabetic Peripheral Neuropathy Week
- SB 38 Establishes a prostate cancer pilot program to provide screening, referral services, treatment and outreach
- SB 62 Modifies provisions relating to health care providers
- HB 151 Authorizes a check-off box for the Organ Donor Program Fund on income tax forms
- HB 388 Requires the attending physician, rather than the Department of Health and Senior Services, to provide a breast implantation patient with information on the advantages, disadvantages, and risks associated with the procedure
- HB 423 Enacts the interstate Health Care Compact in which member states pledge to improve health care policy by returning the authority to regulate health care to the states
- HB 464 Eliminates, combines, and revises certain state boards, commissions, committees, and councils
- HB 552 Modifies provisions relating to the treatment of persons with bleeding disorders
- HB 555 Modifies various provisions relating to individuals with disabilities
- HB 667 Establishes a prostate cancer pilot program to provide screening, referral services, treatment and outreach
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**HEALTH CARE PROFESSIONALS**

- SB 62 Modifies provisions relating to health care providers
- HB 197 Requires the Department of Health and Senior Services to post on its web site resources relating to umbilical cord blood
- HB 300 Establishes the "Interscholastic Youth Sports Brain Injury Prevention Act"
- HB 388 Requires the attending physician, rather than the Department of Health and Senior Services, to provide a breast implantation patient with information on the advantages, disadvantages, and risks associated with the procedure
- HB 499 Adds licensed professional counselors to the list of health care professionals who can report potentially unsafe drivers to the Department of Revenue

**HEALTH DEPARTMENT**

- SB 38 Establishes a prostate cancer pilot program to provide screening, referral services, treatment and outreach
- SB 118 Modifies provisions relating to loans available for sprinkler system requirements in long-term care facilities and to a definition in long-term care facilities chapter (VETOED)
- SB 351 Modifies provisions relating to adoption records
- HB 10 Appropriates money for the expenses, grants, refunds, and distributions of the Department of Mental Health, Board of Public Buildings, and Department of Health and Senior Services
- HB 89 Modifies provisions relating to natural resources
- HB 197 Requires the Department of Health and Senior Services to post on its web site resources relating to umbilical cord blood
- HB 300 Establishes the "Interscholastic Youth Sports Brain Injury Prevention Act"
- HB 388 Requires the attending physician, rather than the Department of Health and Senior Services, to provide a breast implantation patient with information on the advantages, disadvantages, and risks associated with the procedure
- HB 667 Establishes a prostate cancer pilot program to provide screening, referral services, treatment and outreach

**HEALTH, PUBLIC**

- SB 38 Establishes a prostate cancer pilot program to provide screening, referral services, treatment and outreach
- HCR 37 Asks the Governor to recognize every third week in June as Diabetic Peripheral Neuropathy Week in Missouri
- HB 197 Requires the Department of Health and Senior Services to post on its web site resources relating to umbilical cord blood
- HB 641 Modifies provisions relating to controlled substances
- HB 667 Establishes a prostate cancer pilot program to provide screening, referral services, treatment and outreach

**HIGHER EDUCATION DEPARTMENT**

- HB 223 Establishes the Advanced Placement Incentive Grant and the Nursing Education Incentive Program

**HIGHWAY PATROL**

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- SB 54 Creates the Amy Hestir Student Protection Act and establishes the Task Force on the Prevention of Sexual Abuse of Children

### **HOLIDAYS**

- SB 180 Designates certain state recognized days, weeks, and months  
HCR 37 Asks the Governor to recognize every third week in June as Diabetic Peripheral Neuropathy Week in Missouri  
HB 182 Designates the first Friday in March of each year as "Dress in Blue for Colon Cancer Awareness Day"  
HB 749 Designates the month of April as "Child Abuse Prevention Month" and recognizes the "blue ribbon" as the official state symbol for child abuse prevention  
HB 795 Designates the second Friday in March of each year as "Missouri School Read-In Day"

### **HOSPITALS**

- SB 117 Modifies provisions of law regarding the collection of taxes

### **HOUSING**

- SB 108 Extends the expiration date concerning the installation of fire sprinklers in certain home dwellings to December 31, 2019 and modifies adoption by a political subdivision of certain residence codes  
SB 188 Modifies the law relating to the Missouri Human Rights Act and employment discrimination (VETOED)

### **INSURANCE — GENERAL**

- SB 57 Requires courts to transfer certain cases upon the request of the public administrator and specifies that certain political subdivision associations are not required to solicit competitive bids when procuring risk coverages  
SB 83 Allows for the sale of deficiency waiver addendums and other similar products with respect to certain loan transactions  
HB 270 Modifies provisions relating to the administration of health care benefits by the Missouri Consolidated Health Care Plan  
Prop C Denies the government authority to penalize citizens for refusing to purchase private health insurance or infringe upon the right to offer or accept direct payment for lawful health care services; allows for voluntary dissolution and liquidation of certain domestic insurance companies, conditions

### **INSURANCE — MEDICAL**

- Prop C Denies the government authority to penalize citizens for refusing to purchase private health insurance or infringe upon the right to offer or accept direct payment for lawful health care services

### **INSURANCE — PROPERTY**

- SB 101 Creates requirements for contractors who perform home exterior and roof work
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- HB 407 Prohibits a person from preparing or issuing a certificate of insurance form relating to property and casualty insurance unless it has been filed with the director

#### **INSURANCE DEPARTMENT**

- SB 132 Modifies motor vehicle extended service contracts law, amends surplus lines insurance law, establishes a limited-lines insurance license to sell portable electronics insurance, and modifies the retaliatory tax law
- HB 7 Appropriates money for the expenses and distributions of the departments of Economic Development; Insurance, Financial Institutions & Professional Registration; and Labor & Industrial Relations
- HB 407 Prohibits a person from preparing or issuing a certificate of insurance form relating to property and casualty insurance unless it has been filed with the director
- HB 465 Modifies laws relating to the administration of credit unions (VETOED)

#### **INTERSTATE COOPERATION**

- HB 260 Updates the Uniform Interstate Family Support Act
- HB 423 Enacts the interstate Health Care Compact in which member states pledge to improve health care policy by returning the authority to regulate health care to the states

#### **JACKSON COUNTY**

- HB 142 Modifies provisions relating to political subdivisions

#### **JUDGES**

- HB 111 Modifies and enacts various provisions of law relating to the judiciary
- HB 142 Modifies provisions relating to political subdivisions

#### **KANSAS CITY**

- HB 229 Modifies provisions relating to the Public School Retirement System of Kansas City
- HB 282 Modifies provisions regarding public employee retirement
- Prop A Eliminates certain city earnings taxes

#### **LABOR AND INDUSTRIAL RELATIONS DEPARTMENT**

- HB 7 Appropriates money for the expenses and distributions of the departments of Economic Development; Insurance, Financial Institutions & Professional Registration; and Labor & Industrial Relations

#### **LAKES, RIVERS AND WATERWAYS**

- HB 89 Modifies provisions relating to natural resources

#### **LAW ENFORCEMENT OFFICERS AND AGENCIES**

- HB 38 Requires jail administrators to notify MULES when certain felons escape and modifies the amount of fines that are satisfied for one day of labor by a prisoner
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- HB 111 Modifies and enacts various provisions of law relating to the judiciary
- HB 183 Modifies provisions of the Police Retirement System of Kansas City and the Civilian Employees' Retirement System of the Police Department of Kansas City
- HB 282 Modifies provisions regarding public employee retirement
- HB 358 Modifies provisions of the retirement plan of the Police Retirement System of St. Louis

### **LIABILITY**

- HB 209 Modifies the laws regarding nuisances and junkyards (VETOED)
- HB 300 Establishes the "Interscholastic Youth Sports Brain Injury Prevention Act"

### **LIBRARIES AND ARCHIVES**

- HB 470 Modifies provisions of law regarding the nonresident entertainer and athlete tax

### **LICENSES — DRIVER'S**

- HB 204 Modifies the procedures for driver's license renewal for members of the armed forces and their dependents
- HB 430 Modifies various provisions relating to transportation (VETOED)
- HB 499 Adds licensed professional counselors to the list of health care professionals who can report potentially unsafe drivers to the Department of Revenue

### **LICENSES — LIQUOR AND BEER**

- HB 101 Modifies provisions relating to liquor control

### **LICENSES — MISCELLANEOUS**

- HB 294 Modifies the law regarding weapons

### **LICENSES — MOTOR VEHICLE**

- HB 307 Authorizes the Department of Revenue to issue specified special license plates
- HB 430 Modifies various provisions relating to transportation (VETOED)
- HB 798 Designates various highways and bridges within the state of Missouri after individuals and modifies the Heroes Way Interstate Interchange Designation Program

### **LICENSES — PROFESSIONAL**

- SB 132 Modifies motor vehicle extended service contracts law, amends surplus lines insurance law, establishes a limited-lines insurance license to sell portable electronics insurance, and modifies the retaliatory tax law
  - SB 325 Modifies various laws relating to professional registration
  - HB 220 Specifies that real estate brokers and salespersons do not lose immunity from liability for certain statements by only ordering a report or inspection
  - HB 265 Modifies the law regarding the licensure of certain professions
  - HB 464 Eliminates, combines, and revises certain state boards, commissions, committees, and councils
  - HB 591 Authorizes the Dental Board to issue a limited teaching license
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**LIENS**

- SB 220 Modifies liens for certain design professionals and the statute of limitations for actions against land surveyors (VETOED)
- HB 550 Revises the laws regarding liens and encumbrances on motor vehicles, trailers, watercraft, and manufactured homes

**MANUFACTURED HOUSING**

- HB 550 Revises the laws regarding liens and encumbrances on motor vehicles, trailers, watercraft, and manufactured homes

**MARRIAGE AND DIVORCE**

- HB 260 Updates the Uniform Interstate Family Support Act

**MEDICAID**

- HB 552 Modifies provisions relating to the treatment of persons with bleeding disorders

**MEDICAL PROCEDURES AND PERSONNEL**

- SB 38 Establishes a prostate cancer pilot program to provide screening, referral services, treatment and outreach
- HB 667 Establishes a prostate cancer pilot program to provide screening, referral services, treatment and outreach

**MENTAL HEALTH**

- HB 555 Modifies various provisions relating to individuals with disabilities
- HB 557 Allows the Mental Health Earnings Fund to be used for the deposit of revenue received from the proceeds of any sales and services from Mental Health First Aid USA
- HB 648 Modifies provisions relating to individuals with disabilities

**MENTAL HEALTH DEPARTMENT**

- HB 10 Appropriates money for the expenses, grants, refunds, and distributions of the Department of Mental Health, Board of Public Buildings, and Department of Health and Senior Services
- HB 557 Allows the Mental Health Earnings Fund to be used for the deposit of revenue received from the proceeds of any sales and services from Mental Health First Aid USA

**MERCHANDISING PRACTICES**

- SB 135 Modifies provisions pertaining to environmental protection
- HB 101 Modifies provisions relating to liquor control
- HB 190 Allows the Office of Administration to make monies available to the Department of Natural Resources to be used for cash transactions in the sale of items to the public
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**MILITARY AFFAIRS**

- SB 36 Allows employees of certain employers to take a leave of absence for civil air patrol emergency service duty or counter narcotics missions
- HB 136 Allows certain military spouses to qualify for unemployment compensation and requires state agencies or boards to give temporary licenses to certain military spouses
- HB 149 Eliminates the expiration date on the provision allowing an individual or corporation to credit part of a tax refund to the Missouri Military Family Relief Fund
- HB 204 Modifies the procedures for driver's license renewal for members of the armed forces and their dependents

**MOTELS AND HOTELS**

- HB 161 Modifies provisions of law regarding certain taxes imposed by local governments

**MOTOR CARRIERS**

- HB 430 Modifies various provisions relating to transportation (VETOED)

**MOTOR FUEL**

- SB 135 Modifies provisions pertaining to environmental protection
- HB 89 Modifies provisions relating to natural resources

**MOTOR VEHICLES**

- SB 132 Modifies motor vehicle extended service contracts law, amends surplus lines insurance law, establishes a limited-lines insurance license to sell portable electronics insurance, and modifies the retaliatory tax law
- HB 199 Modifies community service requirements for prior and persistent violators of intoxication-related traffic
- HB 354 Exempts a qualified plug-in electric drive vehicle from the state's motor vehicle emissions inspection program
- HB 430 Modifies various provisions relating to transportation (VETOED)
- HB 499 Adds licensed professional counselors to the list of health care professionals who can report potentially unsafe drivers to the Department of Revenue
- HB 550 Revises the laws regarding liens and encumbrances on motor vehicles, trailers, watercraft, and manufactured homes

**NATIONAL GUARD**

- HB 136 Allows certain military spouses to qualify for unemployment compensation and requires state agencies or boards to give temporary licenses to certain military spouses
- HB 149 Eliminates the expiration date on the provision allowing an individual or corporation to credit part of a tax refund to the Missouri Military Family Relief Fund

**NATURAL RESOURCES DEPARTMENT**

- SB 135 Modifies provisions pertaining to environmental protection
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- HB 6 Appropriates money for the expenses, grants, refunds, and distributions of the Department of Agriculture, Department of Natural Resources, and Department of Conservation
- HB 89 Modifies provisions relating to natural resources
- HB 190 Allows the Office of Administration to make monies available to the Department of Natural Resources to be used for cash transactions in the sale of items to the public
- HB 578 Allows the state and political subdivisions to give scrap tires to businesses when the cost is less than other methods of disposal

### **NURSES**

- SB 325 Modifies various laws relating to professional registration
- HB 223 Establishes the Advanced Placement Incentive Grant and the Nursing Education Incentive Program

### **NURSING AND BOARDING HOMES**

- SB 118 Modifies provisions regarding loans available for sprinkler system requirements in long-term care facilities and to a definition in the long-term care facilities chapter (VETOED)
- SB 325 Modifies various laws relating to professional registration

### **PARKS AND RECREATION**

- HB 89 Modifies provisions relating to natural resources
- HB 190 Allows the Office of Administration to make monies available to the Department of Natural Resources to be used for cash transactions in the sale of items to the public

### **PHARMACY**

- SB 284 Modifies the disciplinary authority of the Board of Pharmacy, defines the term legend drug for the purpose of certain pharmacy statutes, and grants exemption from sales tax for certain medical equipment and drugs
- HB 412 Modifies provisions relating to pharmacy
- HB 552 Modifies provisions relating to the treatment of persons with bleeding disorders

### **PHYSICIANS**

- HB 213 Modifies provisions relating to abortion with respect to viability
- HB 300 Establishes the "Interscholastic Youth Sports Brain Injury Prevention Act"

### **POLITICAL SUBDIVISIONS**

- SB 57 Requires courts to transfer certain cases upon the request of the public administrator and specifies that certain political subdivision associations are not required to solicit competitive bids when procuring risk coverages
- SB 108 Extends the expiration date concerning the installation of fire sprinklers in certain home dwellings to December 31, 2019 and modifies adoption by a political subdivision of certain residence codes
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- HB 68 Prohibits political subdivisions from assessing penalties on owners of pay phones for calls made to 911 from the pay phone
- HB 142 Modifies provisions relating to political subdivisions
- HB 184 Allows road district commissioners to receive compensation for their services of up to \$100 per month and specifies that risk coverages procured by certain political subdivision associations shall not require the solicitation of competitive bids (VETOED)
- HB 282 Modifies provisions regarding public employee retirement
- HB 339 Modifies telecommunications provisions relating to carrier of last resort obligations
- HB 578 Allows the state and political subdivisions to give scrap tires to businesses when the cost is less than other methods of disposal
- HB 1008 Allows the state Highways and Transportation Commission to enter into binding highway infrastructure improvement agreements to reimburse any funds advanced by political subdivisions or private entities (VETOED)

### **PRISONS AND JAILS**

- HB 38 Requires jail administrators to notify MULES when certain felons escape and modifies the amount of fines that are satisfied for one day of labor by a prisoner
- HB 340 Modifies provisions relating to county jails and courthouses

### **PROBATION AND PAROLE**

- HB 199 Modifies community service requirements for prior and persistent violators of intoxication-related traffic

### **PROPERTY, REAL AND PERSONAL**

- SB 55 Classifies sawmills and planing mills as agricultural and horticultural property for tax purposes
- SB 101 Creates requirements for contractors who perform home exterior and roof work
- SB 187 Modifies the laws regarding nuisances and junkyards
- HB 209 Modifies the laws regarding nuisances and junkyards (VETOED)
- HB 220 Specifies that real estate brokers and salespersons do not lose immunity from liability for certain statements by only ordering a report or inspection
- HB 407 Prohibits a person from preparing or issuing a certificate of insurance form relating to property and casualty insurance unless it has been filed with the director
- HB 458 Modifies provisions pertaining to agriculture
- HB 506 Modifies provisions of law requiring certain political subdivisions to revise property tax rates
- CA 3 Constitutional Amendment 3, Prevents the state, counties, and other political subdivisions from imposing any new tax, including a sales tax, on the sale or transfer of homes or any other real estate.

### **PUBLIC ASSISTANCE**

- SB 70 Modifies provisions relating to the Missouri Family Trust
- HB 73 Enacts provisions regarding drug testing for TANF applicants and recipients and requires the benefit card to include a photo of the recipient or payee

### **PUBLIC BUILDINGS**

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- SB 188 Modifies the law relating to the Missouri Human Rights Act and employment discrimination (VETOED)  
HB 340 Modifies provisions relating to county jails and courthouses  
HJR 2 Proposes a constitutional amendment reaffirming a citizen's right to prayer

#### **PUBLIC OFFICERS**

- HB 675 Requires county coroners to complete training requirements within six months of appointment or election

#### **PUBLIC RECORDS, PUBLIC MEETINGS**

- HJR 2 Proposes a constitutional amendment reaffirming a citizen's right to prayer

#### **PUBLIC SAFETY DEPARTMENT**

- HB 8 Appropriates money for the expenses, grants, refunds, and distributions of the Department of Public Safety  
HB 101 Modifies provisions relating to liquor control

#### **PUBLIC SERVICE COMMISSION**

- SCR 1 Disapproves a final order of rule making by the Public Service Commission regarding Electric Utility Renewable Energy requirements  
SB 48 Modifies provisions relating to utilities  
HB 338 Allows telecommunications companies to exempt themselves from filing tariffs and being subject to certain state regulations when similar federal regulations exist  
HB 339 Modifies telecommunications provisions relating to carrier of last resort obligations

#### **REDISTRICTING**

- HB 193 Establishes new congressional districts (VETOED -- OVERRIDDEN)

#### **RELIGION**

- HJR 2 Proposes a constitutional amendment reaffirming a citizen's right to prayer

#### **RETIREMENT — LOCAL GOVERNMENT**

- SB 238 Creates a presumption that certain infectious diseases are duty-related for the purposes of firefighters' disability and death benefits  
HB 183 Modifies provisions of the Police Retirement System of Kansas City and the Civilian Employees' Retirement System of the Police Department of Kansas City  
HB 282 Modifies provisions regarding public employee retirement  
HB 358 Modifies provisions of the retirement plan of the Police Retirement System of St. Louis  
HB 664 Changes the laws regarding the Firemen's Retirement System of St. Louis and creates a presumption that certain infectious diseases are duty-related for the purposes of firefighters' disability and death benefits
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**RETIREMENT — SCHOOLS**

- HB 229 Modifies provisions relating to the Public School Retirement System of Kansas City  
HB 282 Modifies provisions regarding public employee retirement

**RETIREMENT — STATE**

- HB 282 Modifies provisions regarding public employee retirement

**RETIREMENT SYSTEMS AND BENEFITS — GENERAL**

- SB 238 Creates a presumption that certain infectious diseases are duty-related for the purposes of firefighters' disability and death benefits  
HB 282 Modifies provisions regarding public employee retirement  
HB 664 Changes the laws regarding the Firemen's Retirement System of St. Louis and creates a presumption that certain infectious diseases are duty-related for the purposes of firefighters' disability and death benefits

**REVENUE DEPARTMENT**

- SB 19 Phases-out the corporate franchise tax over a five year period  
SB 117 Modifies provisions of law regarding the collection of taxes  
HB 4 Appropriates money for the expenses, grants, refunds, and distributions of the Department of Revenue and Department of Transportation  
HB 151 Authorizes a check-off box for the Organ Donor Program Fund on income tax forms  
HB 204 Modifies the procedures for driver's license renewal for members of the armed forces and their dependents  
HB 307 Authorizes the Department of Revenue to issue specified special license plates  
HB 430 Modifies various provisions relating to transportation (VETOED)  
HB 499 Adds licensed professional counselors to the list of health care professionals who can report potentially unsafe drivers to the Department of Revenue  
HB 550 Revises the laws regarding liens and encumbrances on motor vehicles, trailers, watercraft, and manufactured homes  
HB 631 Creates an income tax check-off for contributions to certain funds  
HB 798 Designates various highways and bridges within the state of Missouri after individuals and modifies the Heroes Way Interstate Interchange Designation Program

**REVISION BILLS**

- HB 315 Combines and modifies the provisions of the Revised Statutes of Missouri that have been enacted in more than one bill so that there is only one version of a statute exists  
HB 464 Eliminates, combines, and revises certain state boards, commissions, committees, and councils

**ROADS AND HIGHWAYS**

- SB 77 Expands the types of directional signs which may be erected within highway right-of-ways and creates numerous memorial highway designations

- HB 70 Changes the compensation and mileage allowance for certain members of a county highway commission
- HB 184 Allows road district commissioners to receive compensation for their services of up to \$100 per month and specifies that risk coverages procured by certain political subdivision associations shall not require the solicitation of competitive bids (VETOED)
- HB 430 Modifies various provisions relating to transportation (VETOED)
- HB 1008 Allows the state Highways and Transportation Commission to enter into binding highway infrastructure improvement agreements to reimburse any funds advanced by political subdivisions or private entities (VETOED)

### **SAINT LOUIS**

- HB 282 Modifies provisions regarding public employee retirement
- HB 358 Modifies provisions of the retirement plan of the Police Retirement System of St. Louis
- HB 664 Changes the laws regarding the Firemen's Retirement System of St. Louis and creates a presumption that certain infectious diseases are duty-related for the purposes of firefighters' disability and death benefits
- Prop A Eliminates certain city earnings taxes

### **SAVINGS AND LOAN**

- HB 464 Eliminates, combines, and revises certain state boards, commissions, committees, and councils

### **SECRETARY OF STATE**

- SJR 2 Allows enabling legislation for advance voting and photographic identification for voting
- SB 3 Establishes photo identification requirements for voting and requirements for advance voting (VETOED)
- SB 282 Modifies numerous laws relating to elections (VETOED)

### **SEWERS AND SEWER DISTRICTS**

- HB 89 Modifies provisions relating to natural resources

### **SOCIAL SERVICES DEPARTMENT**

- SB 54 Creates the Amy Hestir Student Protection Act and establishes the Task Force on the Prevention of Sexual Abuse of Children
- SB 320 Modifies provisions relating to domestic violence
- HB 11 Appropriates money for the expenses, grants, and distributions of the Department of Social Services
- HB 73 Enacts provisions regarding drug testing for TANF applicants and recipients and requires the benefit card to include a photo of the recipient or payee
- HB 214 Modifies the human trafficking provisions
- HB 431 Modifies provisions relating to fosters care and adoption promotion
- HB 555 Modifies various provisions relating to individuals with disabilities
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**STATE DEPARTMENTS**

- HB 315 Combines and modifies the provisions of the Revised Statutes of Missouri that have been enacted in more than one bill so that there is only one version of a statute exists
- HB 464 Eliminates, combines, and revises certain state boards, commissions, committees, and councils

**STATE EMPLOYEES**

- HB 270 Modifies provisions relating to the administration of health care benefits by the Missouri Consolidated Health Care Plan
- HB 282 Modifies provisions regarding public employee retirement

**SUICIDE**

- HB 464 Eliminates, combines, and revises certain state boards, commissions, committees, and councils

**TAXATION AND REVENUE — GENERAL**

- SB 19 Phases-out the corporate franchise tax over a five year period
- HB 149 Eliminates the expiration date on the provision allowing an individual or corporation to credit part of a tax refund to the Missouri Military Family Relief Fund
- HB 161 Modifies provisions of law regarding certain taxes imposed by local governments
- Prop A Eliminates certain city earnings taxes

**TAXATION AND REVENUE — INCOME**

- HB 45 Modifies provisions of the Big Government Get Off My Back Act and creates an income tax deduction for small business job creation
- HB 151 Authorizes a check-off box for the Organ Donor Program Fund on income tax forms
- HB 470 Modifies provisions of law regarding the nonresident entertainer and athlete tax
- HB 631 Creates an income tax check-off for contributions to certain funds

**TAXATION AND REVENUE — PROPERTY**

- SB 55 Classifies sawmills and planing mills as agricultural and horticultural property for tax purposes
- SB 117 Modifies provisions of law regarding the collection of taxes
- SB 226 Modifies provisions relating to emergency services
- HB 458 Modifies provisions pertaining to agriculture
- HB 506 Modifies provisions of law requiring certain political subdivisions to revise property tax rates
- HB 737 Modifies provisions of law regarding property taxes
- HJR 15 Constitutional Amendment 2, Exempts real property used by certain former prisoners of war as a homestead from property tax

**TAXATION AND REVENUE — SALES AND USE**

- SB 117 Modifies provisions of law regarding the collection of taxes

- SB 226 Modifies provisions relating to emergency services
- SB 284 Modifies the disciplinary authority of the Board of Pharmacy, defines the term legend drug for the purpose of certain pharmacy statutes, and grants exemption from sales tax for certain medical equipment and drugs
- SB 356 Modifies provisions pertaining to agriculture
- HB 111 Modifies and enacts various provisions of law relating to the judiciary
- HB 430 Modifies various provisions relating to transportation (VETOED)
- CA 3 Constitutional Amendment 3, Prevents the state, counties, and other political subdivisions from imposing any new tax, including a sales tax, on the sale or transfer of homes or any other real estate.

### **TEACHERS**

- SB 54 Creates the Amy Hestir Student Protection Act and establishes the Task Force on the Prevention of Sexual Abuse of Children
- SB 81 Modifies provisions relating to education
- HB 229 Modifies provisions relating to the Public School Retirement System of Kansas City

### **TELECOMMUNICATIONS**

- HB 68 Prohibits political subdivisions from assessing penalties on owners of pay phones for calls made to 911 from the pay phone
- HB 217 Allows election authorities to use electronic voter identification systems and electronic signature pads to verify certain information
- HB 338 Allows telecommunications companies to exempt themselves from filing tariffs and being subject to certain state regulations when similar federal regulations exist
- HB 339 Modifies telecommunications provisions relating to carrier of last resort obligations

### **TOURISM**

- SB 356 Modifies provisions pertaining to agriculture

### **TRANSPORTATION**

- SB 77 Expands the types of directional signs which may be erected within highway right-of-ways and creates numerous memorial highway designations
- SB 173 Modifies provisions of law relating to transportation and infrastructure
- HB 354 Exempts a qualified plug-in electric drive vehicle from the state's motor vehicle emissions inspection program
- HB 430 Modifies various provisions relating to transportation (VETOED)
- HB 484 Establishes the Missouri State Transit Assistance Program to provide financial assistance to public mass transportation providers (VETOED)
- HB 499 Adds licensed professional counselors to the list of health care professionals who can report potentially unsafe drivers to the Department of Revenue
- HB 1008 Allows the state Highways and Transportation Commission to enter into binding highway infrastructure improvement agreements to reimburse any funds advanced by political subdivisions or private entities (VETOED)

### **TRANSPORTATION DEPARTMENT**

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- SB 77 Expands the types of directional signs which may be erected within highway right-of-ways and creates numerous memorial highway designations
- SB 97 Conveys certain property owned by the state
- HB 4 Appropriates money for the expenses, grants, refunds, and distributions of the Department of Revenue and Department of Transportation
- HB 430 Modifies various provisions relating to transportation (VETOED)
- HB 484 Establishes the Missouri State Transit Assistance Program to provide financial assistance to public mass transportation providers (VETOED)
- HB 1008 Allows the state Highways and Transportation Commission to enter into binding highway infrastructure improvement agreements to reimburse any funds advanced by political subdivisions or private entities (VETOED)

### **TREASURER, STATE**

- HB 109 Removes a provision restricting the investment in certain linked deposits

### **TREES AND OTHER PLANTS**

- HB 458 Modifies provisions pertaining to agriculture

### **UNEMPLOYMENT COMPENSATION**

- HB 136 Allows certain military spouses to qualify for unemployment compensation and requires state agencies or boards to give temporary licenses to certain military spouses
- HB 163 Modifies the law relating to unemployment

### **UNIFORM LAWS**

- SB 213 Modifies what information is required in a petition for guardianship for a minor or an incapacitated person, adopts the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act and modifies procedures for ordering autopsies

### **UTILITIES**

- SCR 1 Disapproves a final order of rule making by the Public Service Commission regarding Electric Utility Renewable Energy requirements
- SB 48 Modifies provisions relating to utilities

### **VETERANS**

- HJR 15 Constitutional Amendment 2, Exempts real property used by certain former prisoners of war as a homestead from property tax

### **VETERINARIANS**

- Prop B Puppy Mill Cruelty Act

### **VICTIMS OF CRIME**

- HB 214 Modifies the human trafficking provisions
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**VITAL STATISTICS**

SB 351 Modifies provisions relating to adoption records

**WASTE — HAZARDOUS**

SB 135 Modifies provisions pertaining to environmental protection

HB 89 Modifies provisions relating to natural resources

**WASTE — SOLID**

HB 89 Modifies provisions relating to natural resources

HB 578 Allows the state and political subdivisions to give scrap tires to businesses when the cost is less than other methods of disposal

**WATER RESOURCES AND WATER DISTRICTS**

HB 89 Modifies provisions relating to natural resources

HB 142 Modifies provisions relating to political subdivisions

HB 250 Exempts certain charitable organizations from well construction requirements

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